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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 UNITED STATES OF AMERICA,

4 v.

10 CR 553 (SHS)

5 MONDHER BEJAOUI,

6 Defendant.

7 -----x
8 New York, N.Y.
9 April 10, 2013
10 9:15 a.m.

11 Before:

12 HON. SIDNEY H. STEIN

13 District Judge
14 - and a jury -

15 APPEARANCES

16 PREET BHARARA

17 United States Attorney for the
18 Southern District of New York

19 BY: RACHEL KOVNER, ESQ.

20 KAN MIN NAWADAY, ESQ.

21 Assistant United States Attorneys

22 LAW OFFICES OF JOSHUA L. DRATEL, P.C.

23 Attorneys for Defendant

24 BY: JOSHUA L. DRATEL, ESQ.

25 LINDSAY LEWIS, ESQ.

Also Present: Michael Birley

Special Agent, Federal Bureau of Investigation

Ummi Ansari

Paralegal Specialist, U.S. Attorney's Office

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(Trial resumed; jury not present)

THE COURT: Good morning. Everyone is here except the defendant. The jury is now complete. We were waiting for them. I should tell you that my deputy informed me this morning that the marshals told her that the defendant refused to come to court this morning when they wanted to take him out of the MDC. I don't know why they would have wanted to take him out of the MDC. But the point is, it certainly reinforces his position that he does not want to be present in court.

MR. NAWADAY: Your Honor, if I can explain, Mr. Dratel e-mailed me last night. We had a system where he would e-mail me whether the defendant would want to come or not. He e-mailed me last night, Mr. Dratel did, and informed us that he did not want to come.

THE COURT: "He" meaning?

MR. NAWADAY: Mr. Dratel.

THE COURT: "He" meaning Mr. Bejaoui?

MR. NAWADAY: Oh, yes.

THE COURT: I don't know Mr. Dratel's position, but I take it you're saying that Mr. Bejaoui -- are you saying Mr. Dratel told you last night that Mr. Bejaoui restated to Mr. Dratel Mr. Bejaoui's decision that he did not want to appear in court?

MR. NAWADAY: Yes, your Honor. And what I did was, I e-mailed the marshals to inform them that Mr. Bejaoui did not

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1 want to come to court this morning, but I asked the marshals to
2 confirm in the morning, to keep Mr. Bejaoui on the list and
3 confirm in the morning with Mr. Bejaoui again.

4 THE COURT: And have them do that, it's a good idea to
5 have them do that each morning.

6 MR. NAWADAY: And that is the reason, probably, for
7 the marshals...

8 THE COURT: I understand. Have them do that each
9 morning. Mr. Dratel, I take it you have no objection to that.

10 MR. DRATEL: No, your Honor.

11 THE COURT: Bring in the jury.

12 (Jury present)

13 THE COURT: Please be seated. Good morning, ladies
14 and gentlemen. As you know, we cannot begin until all of you
15 are here. Now all of are you here.

16 Next witness for the government.

17 MS. KOVNER: Your Honor, the government calls Thomas
18 Canastar.

19 THOMAS CANASTAR,

20 called as a witness by the government,

21 having been duly sworn, testified as follows:

22 THE COURT: Good morning, Mr. Canastar. Welcome.
23 Please move your chair close to the mike and speak loudly and
24 clearly into the microphone.

25 THE WITNESS: Thank you.

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1 THE COURT: Your witness, Ms. Kovner.

2 MS. KOVNER: Thank you, your Honor.

3 DIRECT EXAMINATION

4 BY MS. KOVNER:

5 Q. Mr. Canastar, how are you employed now?

6 A. I'm retired.

7 Q. From 2004 to early 2006, what were you doing then?

8 A. I was employed by Robert Plan Corporation as an
9 investigator.

10 Q. Before you joined Robert Plan, did you have any training in
11 investigation?

12 A. Yes, I did. I was employed by New York State Police as an
13 investigator.

14 Q. For how long did you do that?

15 A. 20 years.

16 Q. You mentioned you worked for the Robert Plan as an
17 investigator. What is the Robert Plan?

18 A. It's an insurance company that does underwriting for other
19 companies, for commercial risk policies.

20 Q. What were your responsibilities as an investigator for the
21 Robert Plan?

22 A. To conduct investigations on policies that were assigned
23 risks.

24 Q. And what steps would you typically take as part of an
25 investigation of a policy?

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Canastar - direct

1 A. To inspect the insured drivers and vehicles, to ensure that
2 they were currently of valid registration and current valid
3 driver's license for the drivers.

4 Q. Would you take any steps to investigate if the territory of
5 the declared vehicle was the correct territory?

6 A. I'm sorry.

7 THE COURT: Yes. I couldn't hear that either.

8 Q. Would you take any steps to investigate whether the
9 territory for which the vehicles was insured was correct?

10 A. Yes.

11 Q. What steps would you typically take to do that?

12 A. We would physically go to the location, listed on the
13 policy, and inspect the vehicles by taking photographs and
14 ensuring that the vehicle was the same that was registered.

15 Q. You mentioned that The Robert Plan handled policies for
16 other insurance companies. Is one of the companies that the
17 Robert Plan handled policies for a company known as AIU?

18 A. Yes.

19 Q. And in 2005 as part of your work as an investigator, did
20 you conduct an investigation of a car policy issued by AIU to a
21 company called Hampton Luxury Cars?

22 A. Yes.

23 Q. If we could publish -- as part of your investigation, did
24 you go through the application documents, the file for that
25 policy?

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Canastar - direct

1 A. Yes. Upon receiving the electronic case, I would review it
2 and conduct various databases, generally the ISO claim search,
3 to verify whether the insured policyholder vehicles or drivers
4 had any claims against them.

5 MS. KOVNER: If we could publish Government Exhibit
6 300, in evidence.

7 Q. Mr. Canastar, if I may approach, I'm handing you now what
8 has been marked as Government Exhibits 300 and 309 for
9 identification. Can you tell us, looking at the application of
10 Government Exhibit 300 in evidence, what the address was on the
11 application for Hampton Luxury Cars.

12 A. 15 Mygatt Street, Binghamton, New York.

13 Q. Directing your attention now to Government Exhibit 309,
14 also in front of you, can you turn to the second page of that
15 exhibit. Did the policyholder subsequently provide a new
16 address for that policy?

17 A. Yes.

18 Q. What was the new address?

19 A. It was 2520 Vestal Parkway East, Private Mailbox No. 387,
20 Vestal, New York.

21 Q. As part of your investigation, did you go to both of the
22 addresses that the policyholder had provided?

23 A. Yes, I did.

24 Q. Which one did you go to first?

25 A. The Vestal Parkway address.

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Canastar - direct

1 Q. And when did you go to the Vestal Parkway address the
2 policyholder gave?

3 A. On September 20th of 2005.

4 Q. What did you find at that address?

5 A. I found a small strip store in the Nextel plaza which
6 housed a UPS mailbox store.

7 Q. Were you able to locate any of the insured cars at that
8 location?

9 A. No, I was not.

10 Q. Did you find any evidence that there was a livery cab
11 company based at that address?

12 A. No, I did not.

13 Q. Did you take photos when you went to 2520 Vestal Parkway?

14 A. Yes, I did.

15 Q. I'm showing you now what has been marked as Government
16 Exhibit 318A for identification. Who took at the photos in
17 Government Exhibit 318A?

18 A. Pardon?

19 Q. Who took the photos in Government Exhibit 318A?

20 A. I did.

21 Q. And did you take them on the day that you did that
22 inspection?

23 A. Yes, on September 20th.

24 Q. What generally is shown in that page of photos?

25 A. The first photograph in the upper left-hand corner is the

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Canastar - direct

1 sign for the Nextel plaza, which lists the UPS store.

2 Q. And just are all those photos, we'll go through them one by
3 one, but are all those photos photos of the 25 Vestal Parkway?

4 A. Yes.

5 MS. KOVNER: Your Honor, we would offer 318A.

6 MR. DRATEL: No objection, your Honor.

7 THE COURT: Admitted.

8 (Government's Exhibit 318A received in evidence)

9 MS. KOVNER: Could we publish 318A.

10 THE COURT: Ladies and gentlemen, you remember
11 yesterday when I was describing some of the things that would
12 happen in trial, I said evidence comes in by way of witnesses
13 testifying -- you obviously have seen that -- and also by way
14 of documents and other things being admitted into evidence.
15 Well, we had documents being admitted into evidence. And now
16 there's something else, the photograph that's coming into
17 evidence. You haven't had a stipulation yet.

18 Proceed.

19 MS. KOVNER: Ms. Ansari, if we could publish 318A.
20 318A.

21 Q. Mr. Canastar, can you explain to us, just starting in the
22 top left-hand corner, what each of those photos shows.

23 A. All right. The top left-hand corner is the sign at 2520
24 Vestal Parkway that shows the, in the lower right-hand -- or
25 lower left-hand corner the UPS store.

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Canastar - direct

1 Q. And the next one that's on the right, to the right of that.

2 A. That's the front of the building.

3 Q. The next, the bottom left.

4 A. That's the rear of the building.

5 Q. And then the next one.

6 A. That's the rear part of the parking lot at the rear of the
7 building.

8 Q. Where did you go after you went to this location, 2520
9 Vestal Parkway?

10 A. 15 Mygatt Street, Binghamton, New York.

11 Q. And that's the address that the policyholder had listed on
12 the initial application?

13 A. Yes.

14 Q. Can you describe what you saw at 15 Mygatt Street in
15 Binghamton, New York.

16 A. It's a white three-story frame building --

17 THE COURT: When you say that's the address that the
18 policyholder listed on the initial application, the address the
19 policyholder had listed as what on the initial application?

20 THE WITNESS: 15 Mygatt Street.

21 THE COURT: No, I'm sorry. What was requested of the
22 policyholder?

23 THE WITNESS: I --

24 THE COURT: In other words, you say "the address the
25 policyholder had listed." Do you know whether it was supposed

1 to be where the policyholder lived, where the cars were
2 garaged...

3 THE WITNESS: Where the cars were garaged.

4 THE COURT: Thank you.

5 Q. What did you see at 15 Mygatt Street?

6 A. Again, a three-story white-frame wooden building
7 containing, I believe it was eight apartments.

8 Q. Did you find any evidence of a livery car business at 15
9 Mygatt Street?

10 A. No. None of the vehicles were found at that address.

11 Q. And did you see any evidence of a livery cab business, like
12 an office for a business in the livery cab industry?

13 A. No. I checked the mailboxes within the building, and none
14 of them were listed to Hampton Luxury, the listed policyholder.

15 Q. Were you able to find anybody at that location associated
16 with Hampton Luxury Cars?

17 A. I interviewed a couple of the residents who were home at
18 the time. And none of them were aware of the Hampton Luxury or
19 the vehicles' ever being there.

20 Q. The Court asked you a few questions a moment ago about what
21 the Mygatt Street address was listed as on the application. IF
22 we could just publish for a moment Government Exhibit 300.

23 Zoom in first on the top. There are two places first we will
24 look at the very top. What's the address listed for the
25 applicant here? Can you just read.

1 A. 15 Mygat Street, Binghamton, New York.

2 Q. And then if we could scroll down to the vehicle section of
3 the form, sort of in the middle of the form. What's the
4 address that's listed as the principal place of garaging for
5 the vehicle on this form?

6 A. The same address, 15 Mygat Street, Binghamton, New York.

7 Q. Did you take photos when you went to 15 Mygatt Street in
8 Binghamton?

9 A. Yes, I did.

10 Q. Let me show you now what's been marked as Government
11 Exhibit 318B for identification. Are those the photos that you
12 took at 15 Mygatt Street?

13 A. Yes.

14 MS. KOVNER: Your Honor, the government offers 318B.

15 MR. DRATEL: No objection, your Honor.

16 THE COURT: Do those cars accurate -- do those cars,
17 sorry. Do those photographs accurately represent what you saw
18 that day?

19 THE WITNESS: Yes.

20 THE COURT: All right. Admitted.

21 (Government's Exhibit 318B received in evidence)

22 MS. KOVNER: Ms. Ansari, would you publish 318B.

23 Q. Starting with the photo on the left, can you tell us with a
24 the photo shows.

25 A. That's the front of 15 Mygatt Street, Binghamton, New York.

1 Q. And the photo on the right.

2 A. That's the rear of the building.

3 Q. Did you search the phone books of Vestal in Binghamton to
4 determine if there was a listing for Hampton Luxury Cars?

5 A. Yes. I accessed the yellow pages for Vestal, New York, and
6 Binghamton for the Hampton Luxury company, but no listings
7 existed at that time.

8 Q. Did you do searches of the DMV's records pertaining to the
9 drivers on the policies?

10 A. Yes, I did.

11 Q. What did you determine through those searches?

12 A. That the drivers listed on the policy all had driver's
13 licenses and the addresses of the drivers included Bronx and
14 Manhattan.

15 Q. Were you ever able to obtain an additional address for
16 Hampton Luxury Cars other than the two places where you did
17 inspections?

18 A. No, I did not.

19 Q. Were you ever able --

20 THE COURT: Did you go on the Internet and put in
21 "Hamton Luxury Cars"?

22 THE WITNESS: Yes.

23 THE COURT: What did it show if anything?

24 THE WITNESS: I don't recall at this time.

25 THE COURT: Did you put in "15 Mygat Street,

1 Binghamton"?

2 THE WITNESS: Yes.

3 THE COURT: What did it show?

4 THE WITNESS: Just a residential listing for several
5 people.

6 THE COURT: All right. Thank you.

7 Q. Were you ever able to inspect the vehicles that were
8 insured under this policy?

9 A. No. We were unable to locate them.

10 Q. Did you recommend, after visiting those addresses, that the
11 investigation be closed?

12 A. Yes.

13 Q. Did you know what happened to the policy after that?

14 MR. DRATEL: Objection, your Honor. Foundation.

15 THE COURT: Well, you can lay a foundation.

16 MS. KOVNER: Your Honor, the question I'm asking is
17 simply whether he knew.

18 THE COURT: We don't know that he in the normal course
19 would know.

20 MS. KOVNER: I anticipate that the answer may resolve
21 Mr. Dratel's objection.

22 THE COURT: All right. Go ahead. Ask it again.

23 Q. Do you know ultimately what happened with the policy?

24 A. Yes. It was --

25 MR. DRATEL: Objection.

1 THE COURT: Just a moment.

2 Q. How do you know what happened with the policy?

3 A. On the --

4 THE COURT: Is it, sir, in the normal course of your
5 investigation, do you learn what happens to policies after your
6 investigation is closed, after you close your investigation?

7 THE WITNESS: No.

8 Q. Did you make a recommendation at the close of your
9 investigation?

10 MR. DRATEL: Asked and answered.

11 THE COURT: I'll allow it. Did you make a
12 recommendation at the time you closed your investigation?

13 THE WITNESS: Yes, as a --

14 THE COURT: Just a moment. Yes.

15 Q. And who makes the final decision about what to do with a
16 policy after that?

17 A. It would be the underwriter of the company.

18 MS. KOVNER: Nothing further, your Honor.

19 THE COURT: All right. Cross. Thank you.

20 MR. DRATEL: Thank you, your Honor.

21 THE COURT: It's important just to listen to the
22 question and answer only the question that's being asked.

23 THE WITNESS: All right.

24 CROSS EXAMINATION

25 BY MR. DRATEL:

1 Q. Good morning, Mr. Canastar.

2 A. Good morning.

3 Q. Now, when you did your investigation, you memorialized what
4 you did in the investigation, right?

5 A. Are you saying that I filed a report?

6 Q. Yes.

7 A. Yes, I did.

8 Q. And obviously this was going on almost, about seven and a
9 half years ago now, right?

10 A. Yes. Yes, sir.

11 Q. One of the reasons you file reports is obviously to write
12 down important things so that when you have to testify six,
13 seven, eight years later, perhaps, you don't have to try to
14 remember it all from your head.

15 A. Correct.

16 Q. Now, when you did the investigation at 15 Mygatt Street,
17 you also learned of the -- someone named Ziad Ksouri, is that
18 correct, K-s-o-u-r-i?

19 A. Yes.

20 Q. And in fact, someone at the UPS store told you that --

21 MS. KOVNER: Objection.

22 MR. DRATEL: It's part of the investigation, your
23 Honor.

24 THE COURT: I'll allow it not for the truth but simply
25 for the fact that it was said.

1 Q. -- that Mr. Ksouri came in every other day to pick up the
2 mail from that UPS mailbox for Hampton Luxury Cars, right?

3 A. Yes. The employee stated that.

4 THE COURT: Ladies and gentlemen, I allowed that in
5 for a limited purpose, not for you to determine whether or not
6 the statement that was made to him was true, but simply for the
7 fact that the testimony is the statement was made to him.
8 That's all, for a limited purpose.

9 Proceed.

10 MR. DRATEL: Thank you, your Honor.

11 Q. Now, if you look at -- do you still have Government's
12 Exhibit 300 in front of you, the application?

13 A. Yes.

14 Q. If you look in the upper left-hand corner, it says "the
15 producer."

16 A. Yes.

17 Q. Gheith Insurance Agency, 323 Ninth Street, Brooklyn?

18 A. Correct.

19 Q. The telephone number? Right?

20 A. Yes.

21 Q. Did you ever contact Gheith Insurance Agency?

22 A. No.

23 Q. Did you call them to ask them whether they knew where
24 Hampton Luxury Cars was, where you could find the owners?

25 A. No.

1 Q. You never called them.

2 A. No.

3 Q. Now, if you look underneath there, there's a business
4 telephone box. Do you see? Right?

5 A. Correct.

6 Q. With a phone number. (917) 217-1933.

7 A. Correct.

8 Q. You never called that either, right?

9 A. Uh, I don't recall.

10 Q. It's not in your report. Do you want to see your report?

11 A. Yes, please.

12 Q. OK. I have to give you your entire -- if you just want to
13 leaf through there.

14 A. (Pause) This appears to be the electronic file that was
15 presented to me at the time I was assigned the case.

16 Q. All right. But you also see, if you look at page 3, you
17 also see something called investigation history, right? That's
18 you review, right?

19 A. Yes.

20 Q. Two-page document --

21 A. Yes.

22 Q. -- setting forth what you did. At the bottom you say the
23 investigation should be closed, right?

24 A. Yes.

25 Q. Never called that 917 number, right?

1 A. No, I did not.

2 Q. If you look at page 2 of the application -- I'm sorry --
3 page 3 of the application -- there's a signature, right? There
4 are two signatures, right?

5 A. Yes.

6 Q. And it says "M. Bejaoui"? Is that legible? You can read
7 that? It says B-e-g -- I'm sorry -- B-e-j-a-o-u-i, right?

8 A. Yes.

9 Q. Did you ever look for that person?

10 A. No, I did not.

11 Q. You never called up Gheith Insurance Agency and said, do
12 you know where I can find Mr. Bejaoui --

13 A. No, I did not.

14 Q. -- the signatory?

15 Now, you went once to each location, correct?

16 A. Correct.

17 Q. What time of day? During the day?

18 A. Yes.

19 MR. DRATEL: Nothing further, your Honor.

20 THE COURT: All right. Thank you.

21 MS. KOVNER: Nothing further, your Honor. Thank you.

22 THE COURT: You are excused, Mr. Canastar. Thank you
23 very much.

24 THE WITNESS: Thank you.

25 THE COURT: If you would give those documents to

1 whoever gave them to you.

2 (Witness excused)

3 THE COURT: Next witness for the government.

4 MR. NAWADAY: The government calls Scott Schuster.

5 SCOTT SCHUSTER,

6 called as a witness by the government,

7 having been duly sworn, testified as follows:

8 THE COURT: Good morning, sir. Please be seated. You
9 are your witness, Mr. Nawaday.

10 DIRECT EXAMINATION

11 BY MR. NAWADAY:

12 Q. Good morning.

13 A. Good morning.

14 Q. What do you do for a living?

15 A. I am the president of a company called Servico.

16 Q. Sir, if I could ask you to just speak a little closer to
17 the microphone.

18 A. I am the president of a company called Servico.

19 Q. What does Servico do?

20 A. Servico assists people with the formation of business
21 entities and changing the names of corporations and amendments,
22 and various paralegal services.

23 Q. Where is Servico located?

24 A. We're located in Albany, New York.

25 Q. How long has Servico been in business? Approximately.

1 A. Close to 90 years.

2 Q. And how long have you been with Servico?

3 A. 30-plus years.

4 Q. Are you familiar, as the president of Servico, with
5 Servico's practices in assisting the preparation of corporate
6 files?

7 A. Yes, I am.

8 Q. Please tell us just generally what a person has to do to
9 start a corporation in New York State.

10 A. To start a business corporation in New York State, the
11 process is, we would send them a worksheet. In most cases they
12 would fill out the worksheet with the name of the corporation,
13 the number of shares, the address for service of process, the
14 principal county it's located in, and then the client's billing
15 and information. And the first thing that happens when you're
16 forming a corp. is, we would check for the availability of the
17 corporate name. If the name is available, we would prepare the
18 certificate of incorporation using --

19 Q. What -- I'm sorry. What is the certificate of
20 incorporation?

21 A. A certificate of incorporation is a document that gets
22 filed with the New York Secretary of State Office. It's the
23 tool that you use to establish a corporation in New York State.

24 Q. You mentioned the New York State, Secretary of New York
25 State. Is that a government agency?

1 A. It is.

2 Q. Approximately how many certificates of incorporation does
3 Servico assist customers in filing annually?

4 A. I could guesstimate between 5 and 10 thousand a year.

5 Q. What information if any does Servico need to file a
6 certificate of incorporation?

7 A. We would need the name of the corporation, the number of
8 shares, the address for service of process, the principal
9 county the business is located in, some --

10 Q. What's the difference between the address for service of
11 process and the principal place of business?

12 A. The principal place of business is the county that the
13 state requires on the document. The address for service of
14 process is the address that a corporation can use for the state
15 to forward any legal papers they may be receiving and also tax
16 forms from the tax department, various documents from the
17 government.

18 Q. Sir, are you familiar with the recordkeeping practices of
19 Servico?

20 A. I am.

21 Q. I'm going to hand you what have been marked for
22 identification as Government Exhibits 110 through 134. Sir,
23 please take a look at those and tell me if you recognize those
24 documents.

25 A. (Pause) Yes, I do.

1 Q. What are they generally?

2 A. They're invoices and our office workpapers and worksheets
3 that we use in the office.

4 Q. Are those records of Servico?

5 A. Yes, they are.

6 Q. Are the materials in front of you records that are kept in
7 the course of regularly conducted business of Servico?

8 A. Yes, they are.

9 Q. Are they made in and relied upon in Servico's regular
10 business activity?

11 A. Yes, they are.

12 MR. NAWADAY: Your Honor, the government offers
13 Government 110 through 134.

14 MR. DRATEL: No objection, your Honor.

15 THE COURT: Admitted.

16 (Government's Exhibits 110 through 134 received in
17 evidence)

18 Q. Mr. Schuster, I'd like to walk through some of the
19 documents in front of you. First, if we could turn to
20 Government Exhibit 113.

21 MR. NAWADAY: Ms. Ansari, if you can put up 113,
22 please.

23 Q. Mr. Schuster, do you recognize this document?

24 A. I do.

25 Q. What is it?

1 A. That's a fax cover sheet from Brooklyn Village Accounting &
2 Insurance to a lady in our corporate department at Servico.

3 Q. Who is that person at Servico? Linda?

4 A. Linda.

5 Q. Looking at the phone number, the fax number under Linda's
6 name, do you recognize that number?

7 A. Yes, I do.

8 Q. What number is that?

9 A. That's one of our fax numbers.

10 Q. Turning to the second page of this document, Government
11 Exhibit 113, can you explain what we're looking at here.

12 A. We are looking at a worksheet that Servico sent to this
13 person for the preparation and filing of a certificate of
14 dissolution.

15 Q. What is a certificate of dissolution?

16 A. A certificate of dissolution is a document that gets filed
17 with the secretary of state to dissolve a company.

18 Q. And just focusing on the top portion of this document, what
19 information is set forth on the top portion of this worksheet?

20 A. The name of the corporation, the date it was incorporated
21 in New York State, the dates of all the -- the names and the
22 addresses of all the officers of the company, the name of the
23 officer that's authorizing the dissolution, and then there's a
24 place to put in the client's information and credit card
25 information and phone number, etc.

1 Q. Where did Servico obtain all this information?

2 A. That information comes from the client.

3 Q. Is there anything attached, else attached to Government
4 Exhibit 113?

5 A. There is.

6 MR. NAWADAY: Ms. Ansari, if we can turn to the next
7 page, please.

8 Q. What are we looking at here?

9 A. We are looking at a copy of the filing receipt that's
10 generated by the Division of Corporations from the State of New
11 York, which is showing an amendment for a company by the name
12 of -- can you make that a little bigger, please.

13 Q. Can you focus on the name.

14 A. Yes. Hamton Luxury Cars, Inc.

15 Q. Who generates this document?

16 A. The document, the filing receipt that we're looking at is
17 filed by the Secretary of State Office in Albany.

18 Q. There is a county designation on the right side of this
19 document. Do you know what that county is designated as?

20 A. Yes. That's the code for Broome County.

21 Q. There's also an address for a servicing process. What's
22 the address that's set forth there?

23 THE COURT: Do you mean where it says "address for
24 process"?

25 MR. NAWADAY: Yes. Address for process. Thank you.

1 A. The address for process on the filing receipt is 2520
2 Vestal Parkway East, Suite 2, Vestal, New York, 13850.

3 THE COURT: When it says "the corporation," what is
4 that?

5 THE WITNESS: The corporation, Hamton Luxury Cars.

6 THE COURT: What is an address for process?

7 THE WITNESS: An address for process is the address
8 that the client wants to use for a business to accept any
9 service of process, any tax forms, any government documents
10 should be sent to that address.

11 THE COURT: And what is process?

12 THE WITNESS: What is process?

13 THE COURT: Yes.

14 THE WITNESS: Process is, there may be legal actions
15 against the company so they'll -- summonses or subpoenas would
16 go to that address.

17 THE COURT: In this case who's the client?

18 THE WITNESS: Who is the client?

19 THE COURT: You said "the client." Who is the client?

20 THE WITNESS: The client is the person that ordered
21 the dissolution.

22 Q. And turning back to the page prior to this last page,
23 Ms. Ansari, can you tell from this document who the client who
24 requested the dissolution is, Mr. Schuster?

25 A. The client's name is, I believe the first name is Mondher

1 Bejaoui.

2 Q. I'd like to turn to Government Exhibit 110. It should be
3 in front of you.

4 A. Yes.

5 Q. Do you recognize this document?

6 A. I do.

7 Q. What is it?

8 A. This is a copy of our invoice for services for the articles
9 of dissolution, preparing the articles of dissolution.

10 Q. For which company were the articles of dissolution
11 prepared?

12 A. Can you blow that up for me?

13 MR. NAWADAY: Ms. Ansari, if you can focus on the
14 middle of the document.

15 A. Hamton Luxury Cars, Inc.

16 Q. And Mr. Schuster, if you can describe where on this invoice
17 you were getting that information?

18 A. In the middle of the invoice it has the work, it says
19 "Prepare and attempt to file articles of dissolution, Hamton
20 Luxury Cars, Incorporated."

21 Q. Are you able to tell for whom the articles of dissolution
22 were filed, from this document?

23 A. Excuse me?

24 Q. Are you able to tell for whom the articles of dissolution
25 the client was?

1 A. Yes.

2 Q. I'll direct your attention to the "sold to" column.

3 A. Mondher Bejaoui, Brooklyn Village Accounting & Insurance.

4 Q. What's the address that's given there?

5 A. Looks like 99 Smith Street, Brooklyn.

6 Q. I'd like to turn to Government Exhibit 116. Is this the
7 certificate of dissolution that was prepared by Servico for
8 Hamton Luxury Cars?

9 A. Yes, it was.

10 Q. On the bottom it lists the president of Hamton Luxury Cars.
11 Who is listed there?

12 A. Mondher Bejaoui.

13 Q. I'd like to turn to Government Exhibit 115. What is this
14 document?

15 A. This is a fax cover sheet from the client -- from Linda to
16 the client -- Linda of my office to the client -- asking for
17 some additional information.

18 Q. And who is the client here after the "to," colon?

19 A. Mondher.

20 Q. What if anything is attached to this fax cover sheet?

21 A. The worksheet for preparation.

22 Q. Of what?

23 A. Preparation and filing of the New York certificate of
24 dissolution.

25 Q. What is the consideration that the client is seeking to

1 dissolve?

2 A. Vestal Limousine Corp.

3 Q. There's also a listing for the officers and directors. Who
4 is listed as the officers and directors for Vestal?

5 A. Sadok Mejri.

6 Q. There's also billing information?

7 A. There is.

8 Q. Who is billing information is set forth at the bottom?

9 A. Mondher Bejaoui, Brooklyn Village Agency.

10 Q. I'd like to turn to Government 118. What are we looking at
11 here?

12 A. We are looking at a worksheet that was sent from Servico
13 for the preparation and filing of a certificate of
14 incorporation for a new business.

15 Q. Can you tell from this what the new business that's being
16 incorporated is?

17 A. Bejaoui Express, Incorporated.

18 Q. Is there an address provided for the service of process?

19 A. There is.

20 Q. What is that?

21 A. 5 Brewster Street, No. 119, Glen Cove, New York 11542.

22 Q. There's also a person requesting this to be done on the
23 bottom. Who is the person listed there?

24 A. Ihab Tartir.

25 Q. Does the customer -- and I mean the person requesting the

1 incorporation or dissolution -- have to be someone affiliated
2 with the company?

3 A. No.

4 Q. Who is the customer typically?

5 A. Either -- it's typically the client directly or an attorney
6 or an accountant that they're working with. That's the typical
7 way.

8 Q. Does the client or customer have to be an officer or board
9 member?

10 A. No, they don't.

11 Q. If I could turn to Government Exhibit 120, is that a copy
12 of the filing receipt for Bejaoui Express?

13 A. It is.

14 Q. Now I'd like to turn to 121. And what is this?

15 A. This is an actual copy of the original certificate of
16 incorporation that was prepared by Servico and filed with the
17 secretary of state's office.

18 Q. I'd like you to turn to the second page of the certificate
19 of incorporation. At the bottom there's a signature. Do you
20 recognize that signature?

21 A. Yes.

22 Q. Whose signature is it?

23 A. That's my electronic signature.

24 Q. It shows that you're signing as an incorporator.

25 A. Right.

1 Q. What is an incorporator?

2 A. An incorporator is a person over the age of 18 that acts as
3 an agent for the request for the document to process it
4 quickly, because we have an office in Albany and we're their
5 resource.

6 Q. Do you have any affiliation with a company for whom you act
7 as an agent to incorporate after it's incorporated as a
8 shareholder?

9 A. No, we don't. No, I don't.

10 Q. And do you have any such affiliation with the company as a
11 president or officer?

12 A. No.

13 Q. I'd like to turn to Government Exhibit 123. What is that?

14 A. That is a worksheet for preparation and filing of a
15 certificate of incorporation to establish a new business.

16 Q. What's the new business?

17 A. Pedro Limousine Corp.

18 Q. Can you tell from this document who is requesting the
19 creation of Pedro Limousine?

20 A. Mondher Bejaoui.

21 Q. And what is the address given on Government Exhibit 123 for
22 the service of process?

23 A. The address for service of process that they listed was 99
24 Smith Street, Brooklyn, 11201.

25 Q. Let's turn to Government Exhibit 124. Am I right that this

1 is a corporate receipt for the incorporation of Pedro
2 Limousine?

3 A. Correct.

4 Q. What's the county listed on this document?

5 A. Kings County, Brooklyn.

6 Q. Where are you looking again on that?

7 A. I'm looking to the right side of the page under the "Pedro
8 Limousine" to the right, under where it says "entity name:
9 Pedro Limousine," to the right of it it says "King." That's
10 the abbreviation New York State uses at the secretary of
11 state's office for Kings County.

12 Q. And the address for process is listed where?

13 A. Yes. 99 Smith Street, Brooklyn, New York, 11201.

14 Q. I'd like to turn to Government Exhibit 125. What are we
15 looking at here?

16 A. This is a worksheet of -- a Servico employee took
17 information over the phone from Merci Account -- Mondher
18 Bejaoui at Merci Accounting.

19 Q. Can you tell what the request was from this worksheet?

20 A. For a corporation by the name of Pedro Limousine Corp.,
21 they want to change the address from the current address to a
22 new address.

23 Q. What is the new address?

24 A. 518 Hooper Road, No. 292, Endwell, New York 13760.

25 Q. Is there credit card information set forth on this

document?

A. There is.

Q. Where is that located?

A. It's under where it's "Mondher Bejaoui, Merci Accounting."
To right of it there's a little notation that says "c/c," which
means credit car number.

Q. So after the "c/c#," is that the credit card number?

A. It is.

Q. Is that the number to charge for the service?

A. That's correct.

Q. I'd like to turn to Government Exhibit 126. What is that
document?

A. That is a worksheet for the preparation and filing of a
certificate of change for the corporation of Pedro Limousine to
change an address.

Q. It's the address that it's being changed to.

A. The new address that it was changed to is 518 Hooper Road,
No. 292, Endwell, New York 13760.

Q. Do you recognize the handwriting on the right side of this
page?

A. Yes, I do.

Q. Where it says "to: Mr. Bejaoui," whose handwriting is
that?

A. That is Jodie Crowley from my office.

Q. Could you please look at Government Exhibit 127. I'm

1 sorry. Could you blow that up. Thank you. This is a
2 corporate receipt for Pedro Limousine?

3 A. Yes, it is.

4 Q. What does it show the county as now?

5 A. It now has Broome County.

6 Q. And what's the address for service of process now?

7 A. 518 Hooper Road, No. 292, Endwell, New York, 13760.

8 Q. Mr. Schuster, I apologize, you may have already answered
9 this, but what is the difference between the county designation
10 and the address for process?

11 A. The county designation, county they call the principal
12 office where the business is located, is the county
13 designation, where the business is going to principally
14 operate.

15 Q. I'd like to turn to Government Exhibit 129. What is that
16 worksheet for?

17 A. That is a worksheet for the preparation and filing of a
18 limited liability company.

19 Q. What is the limited liability company that's being created?

20 A. Brooklyn Village Realty & Business Advisors LLC.

21 Q. What is the county of principal office and the service of
22 process address?

23 A. 99 Smith Street, Brooklyn, 11201, Kings County.

24 Q. Can you tell from this document who the customer requesting
25 this creation of an LLC is?

1 A. Mondher Bejaoui, Merci Income, I think it says?

2 (Pause)

3 THE COURT: Sir, be careful of the top. Open the top
4 first.

5 THE WITNESS: Open it up?

6 THE COURT: Yes, a little. It's a trick. It spills
7 water on my witnesses.

8 THE WITNESS: OK. Thanks for the heads up.

9 THE COURT: Not my witnesses, the parties' witnesses.

10 Go ahead.

11 Q. Mr. Schuster, I'd like you to turn to Exhibit 134.

12 Ms. Ansari, if you could pull that up.

13 A. OK.

14 Q. What is this document?

15 A. That's a fax cover sheet sent to Jodie of my office from
16 Mondher of Brooklyn Village, LLC.

17 Q. Now, are there documents attached to this fax cover sheet?

18 A. There are.

19 Q. Are there minutes of organization attached to this
20 document? I'll direct your attention to, if you look in the
21 lower right-hand corner, there's a number 7159.

22 A. There is.

23 Q. This is, I'm sorry, the fourth page. What are we looking
24 at here?

25 A. Minutes of organization meeting, Merci Income Tax Services,

1 Inc.

2 Q. It shows you -- it shows a sole incorporator there.

3 A. It does.

4 Q. Do you recognize that signature?

5 A. Yes. That's my signature, electronic.

6 Q. Were you actually a participant in this meeting?

7 A. No.

8 Q. What is this document?

9 A. This is a waiver that describes that we have no affiliation
10 with the company, that we just incorporate as a convenience and
11 everything gets handed over to the client.

12 Q. Who gets this document?

13 A. Part of it is by us, and then it's filled in by the client.

14 Q. And there is a director name and signature below your
15 signature, under the words, "the undersigned accept their
16 nomination as directors." Who is listed there?

17 A. Mondher Bejaoui.

18 Q. I'd like to turn to Government Exhibit 133.

19 A. OK.

20 Q. What are we looking at?

21 A. We are looking at a certificate of amendment of the
22 certificate of incorporation for Merci Income Tax Services,
23 Inc.

24 Q. And what is the name being changed to?

25 A. Brooklyn Village Accounting & Insurance Agency, Inc.

1 Q. Is there a person listed as the person authorizing the name
2 change?

3 A. There is.

4 Q. Who is that?

5 A. Mondher Bejaoui.

6 Q. Mr. Schuster, after a client asks for a company to be
7 incorporated or dissolved, who receives the actual corporate
8 documents once they are filed by you?

9 A. They get sent back to the requester that ordered the order.

10 Q. Do you receive them?

11 A. First they come to our office, the certificate of
12 incorporation. We attach the filing receipt that we receive
13 from the secretary of state. We package it up. And it gets
14 shipped to the client.

15 Q. Mr. Schuster, I'm going to hand you what's been marked for
16 identification as 603. It's not in front of you yet. Please
17 take a look at that, and I'm actually going to direct your
18 attention to a particular page. First on the second page, what
19 are you looking at there?

20 A. A waiver of notice of organization meeting of Heather Limo
21 Corp.

22 Q. There's a signature there. Is that your signature?

23 A. That's my electronic signature.

24 Q. Just looking at these documents in Government Exhibit 603
25 marked for identification, what company do these documents

1 relate to?

2 A. A company by the name of Heather Limo Corp.

3 Q. Does that appear to be your signature as the incorporator
4 on that page?

5 A. It does.

6 Q. Mr. Schuster, did there come a time when you were asked by
7 the government to have the files of Servico reviewed to see if
8 Servico had ever assisted a client in filing incorporation
9 documents for a company called Heather Limo?

10 A. Yes.

11 Q. What were the results of that review?

12 A. We couldn't find a record of Servico ever doing any work
13 for a company called Heather Limo Corp.

14 Q. I'd like you to look at the last page of this document.

15 A. Yes.

16 Q. There's a customer reference number.

17 A. Yes.

18 Q. Do you know what a customer reference number is?

19 A. I do.

20 Q. What is it?

21 A. It's a number that gets assigned automatically from our
22 system so we have a reference link to the secretary of state
23 where we can put that number in our system and it will call up
24 the document for us.

25 Q. Is it a unique number?

1 A. It is. It's a unique number.

2 Q. Does the customer reference number only relate to one
3 particular client of Servico?

4 A. Correct.

5 Q. Can more than one company for Servico -- withdrawn.

6 Can more than one company for which you file the
7 corporate documents have the same customer number?

8 A. No. It's a unique number.

9 MR. NAWADAY: Your Honor, the government offers
10 Government Exhibit 603 subject to connection.

11 (Continued on next page)

1 MR. DRATEL: Your Honor, I'm going to object based on
2 the lack of foundation. I don't know what connection --

3 THE COURT: I can't hear you.

4 MR. DRATEL: I don't know what connection there's
5 going to be. So I'm going to object.

6 THE COURT: You can explain to Mr. Dratel what the
7 connection you propose is.

8 MR. DRATEL: Your Honor, obviously pending the
9 subsequent witness' effective identification and admission of
10 the document, I don't object in terms of that, but obviously I
11 wanted to not to --

12 THE COURT: It's admitted subject to connection.

13 MR. DRATEL: Right.

14 THE COURT: If no connection is made, bring it to my
15 attention and I'll give an appropriate instruction to the jury.

16 MR. DRATEL: Thank you.

17 THE COURT: Admitted as limited by my statement.

18 (Government's Exhibit 603 received in evidence)

19 MR. NAWADAY: Your Honor, may I have permission to
20 publish the document.

21 THE COURT: Yes.

22 MR. NAWADAY: Thank you.

23 THE COURT: Ladies and gentlemen, that was a legal
24 issue. For your purposes right now, you can listen to the
25 testimony and look at the exhibit.

1 BY MR. NAWADAY:

2 Q. Mr. Schuster, turning to the second page of Government
3 Exhibit 603, is that your signature there?

4 A. That looks like my electronic signature.

5 Q. Turning to the page after that, does that appear to be your
6 signature as well?

7 A. Yes, it does.

8 Q. Then at the last page, can you please point out the
9 customer reference number we were talking about?

10 A. The customer reference number is 7209.

11 Q. Did there come a time when you --

12 MR. DRATEL: Your Honor, may we approach for a moment.

13 THE COURT: Yes.

14 (Continued on next page)
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1 (At the side bar)

2 MR. DRATEL: I think we're in an area again of an
3 uncharged offense, and this is one that we were never really on
4 notice of, that they would have a witness come in and say
5 essentially Mr. Bejaoui forged this document. That's what I'm
6 getting from him. It's not their document, it's from an
7 insurance company. I think what they're going to allege is
8 that he created this document by cutting and pasting from prior
9 documents that he had, and, first of all, the proffer as to how
10 it's relevant to the charges and then, second, if it is
11 relevant in some way, in other words, what's the basis for
12 putting it in at all, whether it's 403, whether 403 applies,
13 and then an instruction if, obviously, I fail to keep it out.

14 MR. NAWADAY: Your Honor, if I may, first, as to the
15 notice portion, this is in the to wit clause of this particular
16 count relating to Heather. In that to wit clause of the
17 indictment, it does say --

18 THE COURT: Let me take a look. Where is it?

19 MR. NAWADAY: This is Heather Limousine.

20 THE COURT: Count six, purported location. Just a
21 moment. It's in count six on the chart under the to wit clause
22 under false matters and application mailings for Heather
23 Limousine. It says purported location of garaging and/or
24 operation in Endwell, New York; forged or fraudulent Department
25 of State filings.

1 Go ahead.

2 MR. NAWADAY: We have put them on notice of this
3 particular conduct. In addition, it is relevant because it
4 will go to knowledge. I expect Mr. Schuster is going to say
5 that he ran that customer reference number and it came back to
6 Bejaoui Express. So the customer reference number on the
7 forged document actually comes back to Bejaoui Express,
8 according to his records.

9 THE COURT: Sir.

10 MR. DRATEL: All right.

11 THE COURT: Let's proceed.

12 MR. DRATEL: Okay.

13 THE COURT: All right. Let's proceed.

14 (Continued on next page)
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(In open court)

THE COURT: Proceed.

BY MR. NAWADAY:

Q. Mr. Schuster, did there come a time when you reviewed Servico's records to see who the Servico client was who is associated with the customer reference number you see here, No. 7209?

A. We did.

Q. And what did you learn, if anything?

A. We couldn't find a client associated with it.

Q. I'm going to ask you to look at Government Exhibit 121, which I believe is in front of you. I think that is the Bejaoui --

A. Oh, right.

Q. Is that the Bejaoui Express certificate of incorporation that's already in evidence?

A. It is.

Q. Please turn to the last page of this document.

A. Okay.

Q. Is there a customer reference number?

A. There is. 7209.

MR. NAWADAY: Nothing further.

THE COURT: Thank you. Cross-examination.

MR. DRATEL: Thank you, your Honor.

CROSS-EXAMINATION

1 BY MR. DRATEL:

2 Q. Good morning, Mr. Schuster.

3 A. Good morning.

4 Q. I just want to talk about address of service of process for
5 a moment. That could be a lawyer's address, right?

6 A. Correct.

7 Q. Some other person involved with the corporation who is
8 designated by the corporation to receive the mail, or whatever
9 else, for purposes of an official address?

10 A. It could be, yes.

11 Q. And it doesn't have to be necessarily the place where the
12 corporation does its principal business?

13 A. Correct.

14 Q. And, in fact, companies from out of state or that have a
15 principal office out of state use the Secretary of State as the
16 agent for this process, right?

17 A. They use the Secretary of State?

18 Q. Yes, essentially as an agent for process.

19 A. The Secretary of State's office?

20 Q. Yes.

21 A. You have to give the Secretary of State an address. You
22 can't use the Secretary of State's office as an address for the
23 service of process.

24 Q. But it could be the agent, though, for a corporation from
25 out of state for purposes of process itself?

1 A. Well, the Secretary of State can accept service of process,
2 but you have to give them the address that it's going to be
3 sent to.

4 Q. Right. But it could be out of sent to is what I'm saying
5 if it's an out-of-state corporation with a principal place of
6 business somewhere else?

7 A. Sure.

8 Q. Now, apart from what --

9 THE COURT: Just a moment. Is this what you're
10 saying, sir -- and don't let me put words in your mouth; I'm
11 just trying to understand your testimony -- that the Secretary
12 of State can be designated as the entity which a corporation
13 wishes to be served with service of process? Is that correct?

14 THE WITNESS: The Secretary of State is the state
15 agency that will accept the papers for the corporation, but you
16 must --

17 THE COURT: All right. I just want to take it slowly.
18 So you're saying the Secretary of State can agree to accept
19 subpoenas, complaints, things of that nature, for a
20 corporation?

21 THE WITNESS: Correct.

22 THE COURT: All right. Then what, if anything?

23 THE WITNESS: After they accept it, they will pass it
24 on, by certified return receipt mail or registered mail, to the
25 address that was given in the certificate of incorporation.

1 THE COURT: In other words -- again, I'm just trying
2 to understand it; if I'm incorrect, tell me; I'm not trying to
3 put words in your mouth -- when a corporation files its
4 certificate of incorporation with the Secretary of State, I
5 think you're telling me it designates a place where the
6 Secretary of State can serve the corporation with any legal
7 papers the Secretary of State has received --

8 THE WITNESS: Correct.

9 THE COURT: -- that are due to the corporation?

10 THE WITNESS: Correct.

11 THE COURT: Okay. And I think Mr. Dratel's question
12 was, is this true even if the corporation puts down, We,
13 corporation, want you, Secretary of State, to serve us in
14 Bemidji, Minnesota, at 17 Green Drive, as opposed to someplace
15 in New York. Is that right?

16 THE WITNESS: That's true.

17 THE COURT: Thank you.

18 BY MR. DRATEL:

19 Q. Part of what Servico does is to assist clients in filing --
20 when I say assist, the worksheets are designed to give advice
21 to people on what information is necessary and how to be
22 successful in filing papers with the state?

23 A. Well, we don't give advice. We give them the worksheet,
24 and they complete it.

25 Q. But what I'm saying is that you give them a worksheet that

1 says what information they need to provide?

2 A. Right. They fill in what we ask for.

3 Q. If you don't get that, you can't file the papers, if you
4 don't get the information you seek?

5 A. We have to have the information from the client.

6 Q. I just want to go through -- do you still have the
7 exhibits?

8 A. I do.

9 Q. If we could go to Government Exhibit 116, that's the
10 dissolution for Hamton Luxury Cars?

11 A. Right.

12 Q. The date of that is January 11, 2007, right?

13 A. Correct.

14 Q. And go back to 115, which is the fax cover sheet. Right?

15 A. Right.

16 Q. And a worksheet. Do you have that, 115?

17 A. I do.

18 Q. If you look at the top left, there's a fax legend, right?
19 It's November 4 of '06, right?

20 A. Correct.

21 Q. And there's also a date on the fax cover sheet of 11/4/06,
22 right?

23 A. Right.

24 Q. Go to 118, please. Now, that's a worksheet for Bejaoui
25 Express, correct?

D4aWbej2

Schuster - cross

1 A. Correct.

2 Q. And do you see the name? It has Ihab Tartir?

3 A. I do.

4 Q. Do you know Ihab Tartir?

5 A. I don't know him. I know the name.

6 Q. And there's nothing unusual about a name that's not
7 necessarily reflected in the name of the corporation, right --

8 A. Right.

9 Q. -- to be involved.

10 And he's also the person who paid, correct, at the
11 bottom?

12 A. Yes. If that was his credit card that he submitted.

13 Q. Yes. But it says name of card holder, Ihab Tartir?

14 A. Right.

15 Q. Go to 120, please. And the date on that is January 12,
16 2005, right?

17 A. The filing date, yes.

18 Q. Right. And that's for Bejaoui Express, right?

19 A. Correct.

20 Q. The incorporation?

21 A. Right.

22 Q. Go to 123, please. And that's Pedro Limousine?

23 A. It's a worksheet for Pedro Limousine Corp.

24 Q. If we look at the top left, the fax legend is March 15,
25 2006?

D4aWbej2

Schuster - cross

1 A. Yes.

2 Q. Go to 125, please. That's the address change?

3 A. Correct.

4 Q. And that's March 20, 2006?

5 A. That's the date the lady in my office took the order.

6 Q. Right. That's five days after the incorporation, right?

7 A. Right.

8 Q. I'm sorry?

9 A. Correct.

10 Q. Yes. Now let's go to 134, please. On that second page,
11 the one right after the fax cover sheet, and this is for
12 Brooklyn Village, right, Brooklyn Village Accounting &
13 Insurance Agency?

14 A. That's what's on the fax cover sheet, right.

15 Q. If you see the second page, it's a document that says State
16 of New York Insurance Department?

17 A. Right.

18 Q. And it says Hossam Eldin, last name Alged?

19 A. Right.

20 Q. Right? What is that?

21 A. That looks like a license for somebody by that name.

22 Q. To do what? To sell insurance, right? To be a broker?

23 A. It says it's a, he's a producer. The producer is licensed
24 as an insurance broker for a property and casualty company.

25 Q. And his address is at 99 Smith Street, Brooklyn?

1 A. It is.

2 Q. Do you know why that document is included in these papers?

3 A. It looks like the client sent that to us.

4 Q. Is it fair to say if it has to do with insurance business
5 that he's a licensed insurance broker?

6 MR. NAWADAY: Objection.

7 THE COURT: Sustained.

8 BY MR. DRATEL:

9 Q. If you know whether a company that holds itself out as an
10 insurance agency needs a licensed broker to do that.

11 A. I'm not sure.

12 Q. Now, you obviously reviewed Government Exhibits 110 through
13 134 in preparation for your testimony?

14 A. I did.

15 Q. And those are all Servico documents, right?

16 A. They are.

17 Q. And there's nothing illegal about them, right, from your
18 point of view?

19 MR. NAWADAY: Objection.

20 BY MR. DRATEL:

21 Q. From Servico's point of view?

22 MR. NAWADAY: Objection.

23 THE COURT: Sustained.

24 MR. DRATEL: I'll withdraw it.

25 THE COURT: Sustained. Rephrase.

1 BY MR. DRATEL:

2 Q. The documents are not unusual in the sense of what you do
3 in business every day at Servico in terms of filing either
4 dissolution applications or incorporation applications?

5 MR. NAWADAY: Objection.

6 THE COURT: I'll allow it.

7 You see documents of this nature all the time, right?

8 THE WITNESS: I do. That's what we do.

9 THE COURT: With items filled out, on its face, there
10 doesn't appear to be anything unusual about these documents,
11 right?

12 THE WITNESS: They look like our documents, yes.

13 THE COURT: Right.

14 BY MR. DRATEL:

15 Q. If there was something suspicious about it, you wouldn't
16 have filed these in the first place, right? If your office had
17 suspicions about the legitimacy of these transactions, you
18 would not have filed them, your office would not have filed
19 them?

20 MR. NAWADAY: Objection.

21 THE COURT: Lay a foundation.

22 BY MR. DRATEL:

23 Q. You trained your personnel on the rules and regulations of
24 corporate filings in the State of New York?

25 A. Well, the information comes from the client, so if it's

1 that way, we file it, we attempt to file it.

2 Q. Right.

3 THE COURT: In other words, am I correct that if the
4 proper boxes are all filled out, you file it?

5 THE WITNESS: Correct.

6 BY MR. DRATEL:

7 Q. And there's nothing in the documents themselves or the
8 information you got from the clients in this respect that would
9 raise a red flag that something is going on that Servico
10 shouldn't be part of?

11 A. Correct.

12 Q. Is that fair to say?

13 A. Right.

14 Q. You certainly wouldn't sign your name to anything like
15 that, right?

16 A. No.

17 MR. DRATEL: Nothing further, your Honor. Thank you.

18 THE COURT: Thank you. Anything on redirect?

19 MR. NAWADAY: No, your Honor.

20 THE COURT: Thank you, Mr. Schuster. You may step
21 down.

22 (Witness excused)

23 THE COURT: Ladies and gentlemen, I think it's
24 appropriate for a break. Would you like a break at this time?

25 All right. Let's take ten minutes. I'll stay up

1 here. We'll make it short. And if the attorneys would get the
2 documents from up here.

3 (Recess)

4 THE COURT: Please be seated in the courtroom.

5 Next witness for the government.

6 MS. KOVNER: Your Honor, the government would like to
7 read in a stipulation between the parties.

8 THE COURT: Now we have a stipulation.

9 MS. KOVNER: The stipulation is marked Exhibit 2505
10 for identification, and it read:

11 "It is hereby stipulated and agreed, by and between
12 the United States of America, by Preet Bharara, United States
13 Attorney for the Southern District of New York, Rachel Kovner,
14 and Kan Nawaday, Assistant United States Attorneys, of counsel,
15 and Mondher Bejaoui, the defendant, by and with the consent of
16 his attorneys, Joshua Dratel and Lindsay Lewis, Esq., that:

17 "1. If called to testify, a custodian of records of
18 the New York Department of State Division of Corporations
19 ('Division of Corporations') would testify as follows:

20 "A. He or she is familiar with the record-keeping
21 practices of the Division of Corporations;

22 "B. Government Exhibit 100 consists of a true and
23 correct copy of the certificate of incorporation of Bejaoui
24 Express, Inc., which was filed with the Division of
25 Corporations on January 12, 2005;

1 "C. Government Exhibit 101A consists of a true and
2 correct copy of the certificate of incorporation of M&R General
3 Contractors, which was filed with the Division of Corporations
4 on May 18, 2005;

5 "D. Government Exhibit 101B consists of a true and
6 correct copy of the certificate of amendment of M&R General
7 Contractors Corp., which was filed with the Division of
8 Corporations on May 31, 2005;

9 "E. Government Exhibit 102 consists of a true and
10 correct copy of a certification of the Division of
11 Corporations, dated January 29, 2013, certifying that upon an
12 examination of the records of the Division of Corporations, no
13 certificate of incorporation for Heather Limo Corp. was found
14 on file with the Division of Corporations;

15 "F. Government Exhibit 103A consists of a true and
16 correct copy of the certificate of change of the certificate of
17 incorporation of Pedro Limo Corp., which was filed with the
18 Division of Corporations on May 21, 2006;

19 "G. Government Exhibit 103B consists of a true and
20 correct copy of the certificate of incorporation of Pedro
21 Limousine Corp., which was filed with the Division of
22 Corporations on March 16, 2006;

23 "H. Government Exhibit 104A consists of a true and
24 correct copy of the certificate of incorporation of Merci
25 Income Tax Services, Inc., which was filed with the Division of

1 Corporations on January 12, 2005;

2 "I. Government Exhibit 104B consists of a true and
3 correct copy of the certificate of amendment of a certificate
4 of incorporation of Merci Income Tax Services, Inc., which was
5 filed with the Division of Corporations, on April 26, 2006;

6 "J. Government Exhibit 105 consists of a true and
7 correct copy of the certificate of incorporation of Vestal
8 Limousine Corp., which was filed with the department of
9 corporations on September 14, 2005;

10 "K. The information contained in Government Exhibits
11 100, 101A, 101B, 102, 103A, 103B, 104A, 104B, and 105 was
12 recorded by the Division of Corporations at or near the time
13 the activity took place, was kept in the regular course of the
14 Division of Corporations' regular business activity, and was
15 relied on as a regular practice of the Division of
16 Corporations.

17 "3. The parties further stipulate and agree that
18 Government Exhibits 100, 101A, 101B, 102, 103A, 103B, 104A,
19 104B, and 105, and this stipulation, may be received into
20 evidence as Government Exhibits at trial."

21 Your Honor, that concludes the stipulation, and may we
22 briefly publish the documents we referenced in the stipulation.

23 THE COURT: Yes, but move the documents you intend to
24 move into evidence as well as the stipulation.

25 MS. KOVNER: Your Honor, the government offers

1 Government Exhibit 2505, the stipulation, and Exhibits 100,
2 101A, 101B, 102, 103A, 103B, 104A, 104B, and 105.

3 THE COURT: Admitted.

4 (Government's Exhibits 2505, 100, 101A, 101B, 102,
5 103A, 103B, 104A, 104B, and 105 received in evidence)

6 MS. KOVNER: May we publish first Government Exhibit
7 100.

8 THE COURT: What do you intend to do with these on the
9 screen?

10 MS. KOVNER: We just intend to briefly show what the
11 documents were.

12 THE COURT: Go ahead.

13 MS. KOVNER: We'll just pause to look at Government
14 Exhibit 100 first.

15 THE COURT: Next.

16 MS. KOVNER: If we could look at one of the changes
17 then, which is 103A. And that's fine, your Honor.

18 THE COURT: All right. Next witness for the
19 government.

20 MR. NAWADAY: The government calls Laura Hussein.

21 THE COURT: Approximately how long do you think her
22 direct is going to be, sir?

23 MR. NAWADAY: Approximately a half hour to 40 minutes,
24 your Honor.

25 THE COURT: All right. We're going to take our two

1 hour lunch break today at 12:15 and be back by 2:15.

2 LAURA HUSSEIN,

3 called as a witness by the Government,

4 having been duly sworn, testified as follows:

5 DIRECT EXAMINATION

6 BY MR. NAWADAY:

7 Q. Good morning. What do you do for a living?

8 A. I'm a full-time grad student.

9 Q. I want to direct your attention, Ms. Hussein, to the time
10 period of 2005. Were you employed then?

11 A. Yes.

12 Q. Who were you employed by?

13 A. At the time I was employed by Ihab Tartir Law Office, and
14 then towards the end of the year, I was employed by Mondher
15 Bejaoui at Merci Income.

16 Q. I want to start with the person you mentioned as Ihab
17 Tartir. Who was that?

18 A. He's an immigration attorney.

19 Q. Where was Mr. Tartir's office located?

20 A. 305 Atlantic Avenue.

21 THE COURT: 305 what?

22 THE WITNESS: Atlantic Avenue.

23 THE COURT: In Brooklyn?

24 THE WITNESS: Yes.

25 BY MR. NAWADAY:

1 Q. What was your title?

2 A. Secretary.

3 Q. Did any other people share the office at 305 Atlantic
4 Avenue at that time?

5 A. Yes. There were two other people.

6 Q. Who were they?

7 A. Mondher Bejaoui and Iman, who is a real estate broker.

8 Q. What did Mondher Bejaoui do?

9 A. He was an accountant.

10 Q. Did there come a time when you stopped working for
11 Mr. Tartir?

12 A. Yes.

13 Q. Around when was that?

14 A. Around November.

15 THE COURT: November --

16 THE WITNESS: 2005.

17 THE COURT: -- 2005?

18 THE WITNESS: Yes.

19 BY MR. NAWADAY:

20 Q. Ms. Hussein, if you could just pull yourself up a little
21 more.

22 A. Oh, okay.

23 Q. Thank you.

24 When you first started working for Mr. Bejaoui, where
25 was his office?

1 A. He was located at the first door, on your left, inside the
2 office.

3 Q. At 305 Atlantic Avenue?

4 A. At 305 Atlantic Avenue.

5 Q. Just generally, what did you do for Mr. Bejaoui at that
6 time?

7 A. Just took care of paperwork, any miscellaneous things that
8 needed to be done in the office.

9 Q. What business was Mr. Bejaoui in at that time?

10 A. Accounting.

11 Q. Did there come a time when he provided other services?

12 A. Yes. When we moved into our new office in January of 2006.

13 Q. Where was that new office you moved to?

14 A. 99 Smith Street, Brooklyn, New York.

15 Q. Approximately how far was the 99 Smith Street office from
16 305 Atlantic Avenue?

17 A. Right across the street and around the corner.

18 Q. You said that Mr. Bejaoui started providing another
19 service?

20 A. Yes. He provided TLC insurance.

21 Q. What do you mean by TLC insurance?

22 A. He provided insurance for livery cab drivers at the time.

23 THE COURT: TLC stands for Taxi and Limousine
24 Commission?

25 THE WITNESS: Yes. Oh. I'm sorry. Yes.

1 BY MR. NAWADAY:

2 Q. Do you know how Mr. Bejaoui obtained cab insurance for
3 drivers?

4 A. I don't know the exact process. All I know was if anyone
5 needed insurance, they came and they spoke to Mondher and he
6 did paperwork for them, and they were on a policy.

7 Q. Do you remember any of the names of the policies?

8 A. Bejaoui Express and Hamton Luxury.

9 Q. Did there come a time when you actually went to an
10 insurance company office with Mr. Bejaoui?

11 A. Yes. That was just right before we moved to the new
12 office. I was told to take a money order and some paperwork
13 and just go upstairs to the office and hand them in. That's
14 all.

15 Q. Where did you go?

16 A. All I could remember was it was on 34th between Eighth and
17 Ninth, I think.

18 Q. How did you get there?

19 A. He drove me.

20 Q. Who is he?

21 THE COURT: In Manhattan?

22 A. Mondher Bejaoui.

23 THE COURT: In Manhattan?

24 THE WITNESS: In Manhattan, yes.

25 BY MR. NAWADAY:

1 Q. Do you remember the name of the company you went to in
2 Manhattan?

3 A. I think it was American -- it was American Transit or
4 American insurance, something like that.

5 Q. What was the name of Mr. Bejaoui's business?

6 A. At the beginning, when we first moved in, it was Merci
7 Income, and then we changed it to Brooklyn Village.

8 THE COURT: When you moved, when you first moved in to
9 the new location, in January of '06?

10 THE WITNESS: Yeah, it was Merci Income Taxes, and
11 then not so long, we moved, we changed it to Brooklyn Village.

12 BY MR. NAWADAY:

13 Q. Who decided to change it to Brooklyn Village?

14 A. Mondher did.

15 Q. Mr. Bejaoui?

16 A. Yes.

17 Q. Let's change gears and talk about the office at 99 Smith
18 Street. Can you provide a physical description of that office?

19 A. Sure. It was a main floor, street level. You walked in.
20 It was like about mahogany, parquet floors. There were four
21 desks once you walked in, and half a level up were three
22 stairs, which was Mondher's office, the bathroom, and then
23 stairs that would take you downstairs to the basement.

24 Q. When you first walked in, you said there were four desks?

25 A. Yes.

1 Q. Who sat at those desks?

2 A. Me and Hossam Alged at the time, when we first started, and
3 then we had two new employees.

4 Q. Were there any partitions between those desks?

5 A. No.

6 Q. You mentioned that there were half-steps. Where were those
7 half-steps?

8 A. Right behind my desk. It was about three steps, you go up,
9 and it was Mondher's office, Mr. Bejaoui's office.

10 Q. Were there any partitions between Mr. Bejaoui's office and
11 the rest of the office?

12 A. Yeah. It was enclosed with glass.

13 Q. Did anyone else have an office that was separate from the
14 rest of the office?

15 A. No. No one.

16 Q. You mentioned a Hossam Alged?

17 A. Yes.

18 Q. What was his job?

19 A. When, at the beginning, when they first started working
20 together, he was just basic, taking care of other, you know,
21 documents and stuff, and eventually he got his insurance
22 broker's license.

23 Q. And we'll get back to that.

24 Who else besides Hossam worked at the office?

25 A. Another employee named Kawsar Mansey and another employee.

1 I don't remember her name though.

2 Q. What was Kawsar Mansey's job?

3 A. Just basic office duties, filing, answering phones. She
4 was in the process of getting her travelers license, but it
5 never fell through.

6 THE COURT: What's a travelers license?

7 THE WITNESS: For, to book flights. I don't know how
8 you would put it.

9 THE COURT: Oh, a travel agent?

10 THE WITNESS: Travel agent.

11 THE COURT: A license to be a travel agent?

12 THE WITNESS: Yes.

13 THE COURT: Okay.

14 BY MR. NAWADAY:

15 Q. Who did you, Kawsar, and Hossam work for?

16 A. Mondher Bejaoui.

17 Q. I'd like to talk about the livery insurance side of the
18 business. What kinds of people were the customers of that
19 business?

20 A. 95 percent of our customers were TLC drivers or owners of
21 car service or TLC-based vehicles.

22 Q. Do you remember any specific owners?

23 A. We had one specific owner who was right across the street
24 from us. She owned the car service. And two other clients
25 that were just basic owners of a couple of vehicles that were

1 on certain policies.

2 Q. Do you remember the names of those people?

3 A. I don't remember the lady's name who owned the business
4 across the street. But I remember one, Olivia was one. I
5 don't remember some of the other ones.

6 Q. Do you know approximately how many vehicles were owned by
7 Mr. Bejaoui?

8 A. He owned a couple. Probably about ten vehicles.

9 Q. I'd like to talk about when a new customer for livery
10 insurance came in. What did you do when a new customer came
11 in?

12 A. When they came in and they spoke that they needed
13 insurance, I would direct them to Mr. Bejaoui's office. If, at
14 the time, he wasn't there, then Mr. Alged would, you know,
15 conduct whatever it is that needed to be conducted.

16 Q. What were your duties at the office?

17 A. I was basic office manager. I took care of all the bills.
18 Anything that pertained to the office, any paperwork that
19 needed to be taken care of, any money transactions that needed
20 to be deposited into the accounts, but that was it.

21 Q. Do you know how the customers of the livery insurance paid?

22 A. They paid by cash.

23 Q. Who collected the money?

24 A. The majority of the time it was me. If I wasn't there,
25 then Mr. Alged. If not, then Mr. Bejaoui.

1 Q. When you collected the money, what did you do with it?

2 A. At the end of the day, once the money was collected, it was
3 deposited into a bank account.

4 Q. Do you know which bank account?

5 A. Yeah, it was a Citibank account, which belonged to
6 Mr. Bejaoui.

7 Q. Who directed you to make the deposits?

8 A. Mr. Bejaoui.

9 Q. Did you have to contact drivers when payments were due?

10 A. Yes.

11 Q. And how did that happen?

12 A. Normally, when a driver was due for a payment, it would be
13 looked up. I would call each driver when the payment was due,
14 and they would have to come in at that time and date that I had
15 spoke to them about. If not, then I would constantly call them
16 until they came and paid their payments.

17 Q. Who directed you to do that?

18 A. Mr. Bejaoui.

19 Q. About how many drivers, approximately, did you collect
20 money from during your time at that office?

21 A. Roughly between 15 to 35.

22 Q. Were you ever asked to pay parking tickets?

23 A. Yes.

24 Q. Who gave you instructions to pay parking tickets?

25 A. Mr. Bejaoui.

1 Q. And how did you do that?

2 A. I would pay by debit card that belonged to Mr. Bejaoui. I
3 would look up the vehicles, and if there was, if it was on
4 there, I paid it. If a customer would call and tell us that
5 their cars were towed, then I would go online and pay them off.

6 Q. Which vehicles did these parking tickets relate to?

7 A. A lot of the TLC drivers who were on certain policies, and
8 Mr. Bejaoui's personal vehicle.

9 Q. Do you know what kind of parking tickets these were?

10 A. They were cleaning. Cleaning, meter, fire hydrant.

11 Q. What city was issuing the parking tickets?

12 A. The majority were Brooklyn.

13 THE COURT: I don't understand. What's a cleaning
14 parking ticket?

15 THE WITNESS: Oh. When there was cleaning for the
16 streets at certain times.

17 THE COURT: In other words, when it says no parking
18 9:30 to 11?

19 THE WITNESS: Yeah.

20 THE COURT: It doesn't say it, but because there's
21 cleaning going on?

22 THE WITNESS: Because there's cleaning, yes.

23 THE COURT: Okay.

24 BY MR. NAWADAY:

25 Q. You said you used a debit card to pay the tickets?

1 A. Yes.

2 Q. Whose card?

3 A. Mr. Bejaoui's.

4 Q. How did you pay the tickets? Did you write a check --
5 withdrawn.

6 Did you go to a Web site to pay the tickets?

7 A. Yes. I used the New York City pay-parking-tickets Web
8 site.

9 Q. Do you know if Mr. Bejaoui also assisted drivers with
10 filing TLC paperwork?

11 A. Yes, but he had runners who would do all the paperwork at
12 the DMV and the TLC commission.

13 Q. What do you mean runners?

14 A. There were one or two people that were appointed this
15 position. Once Mr. Bejaoui would finish a transaction with the
16 drivers, after he's collected money, make copies of their
17 driver's license, the runners would come, take the paperwork,
18 go to the DMV or the TLC commission, and were able to obtain
19 license plates and registrations for these vehicles.

20 Q. Do you remember the names of any of these runners?

21 A. One was Jimmy. The other one was Mohammed. And Jose.

22 Q. Do you remember somebody named Bakry?

23 A. And Bakry, yes. He was, he maintained a lot of the Bay
24 Ridge vehicles, a lot of the people who had car service offices
25 in Bay Ridge, and he would cause to get on policies, he would

1 do it.

2 Q. Did he act as a runner, too, for Mr. Bejaoui?

3 A. Yes. Most of his things were at the TLC commission itself.

4 None of them were really at the DMV.

5 Q. You mentioned a person named Jimmy?

6 A. Yeah.

7 Q. What did he look like?

8 A. He was about five ten, five seven, skinny, black hair.

9 That's all I can remember.

10 Q. Did you know someone named Sadok who was affiliated with
11 the office?

12 A. Yes, but I barely remember what it was.

13 Q. Do you know what Sadok's role was, if any, at the office?

14 A. All I remember was that he had to do with vehicles being
15 brought in and some drivers, but exactly what it was, I don't
16 know.

17 Q. Do you remember a person named Ziad?

18 A. Yes.

19 Q. Did he work at the office?

20 A. He was Ihab Tartir's paralegal, so he wasn't at the office.
21 I mean, he never worked there and he was frightened of
22 Mr. Bejaoui, but that's all.

23 Q. I just want to make sure. So Zyad did not work at
24 Mr. Bejaoui's office?

25 A. No. No, he did not.

1 Q. When you worked at the office, Mr. Bejaoui's office, were
2 you ever present when license plates were distributed?

3 A. Yes.

4 Q. Who typically distributed those license plates?

5 A. Mr. Bejaoui.

6 Q. Was there anything distinctive about those license plates?

7 A. Yeah. They were all -- they had the basic TLC numbers.

8 Some of them that did come from the DMV were basic DMV, basic
9 car -- how do I put it? They weren't TLC-directed type of
10 license plates.

11 Q. How could you tell?

12 A. The numbers were different.

13 Q. So how can you tell if a license plate was a TLC license
14 plate?

15 A. The normal ones we had, there was four -- there are three
16 letters and four numbers for a regular vehicle. A TLC had the
17 TLC letters, and I don't remember the -- but they were more
18 numbers on the license plate. They were distinguished from
19 each other in character.

20 Q. Why don't we focus on the TLC plates.

21 A. Okay.

22 Q. What is it about the license plates you saw that made you
23 believe they were TLC plates?

24 A. TLC letters. They were the letters with the numbers.

25 Q. Was there a T?

1 A. Yes. Oh. Okay.

2 Q. Did there come a time when the business expanded to offer
3 insurance?

4 A. Yes.

5 Q. Around when was that?

6 A. This was towards the end of March.

7 THE COURT: What year?

8 THE WITNESS: 2006.

9 BY MR. NAWADAY:

10 Q. How did you learn that the business was going to expand to
11 include providing insurance?

12 A. Mr. Alged obtained insurance broker's license.

13 Q. Whose idea was it for Mr. Alged to obtain a brokerage
14 license?

15 MR. DRATEL: Objection.

16 A. Mr. --

17 THE COURT: Wait just a moment.

18 THE WITNESS: Okay.

19 THE COURT: If you know? Do you know whose idea it
20 was for Mr. Alged to obtain a broker's license.

21 THE WITNESS: Yes.

22 THE COURT: Who?

23 THE WITNESS: Mr. Bejaoui and Mr. Alged.

24 THE COURT: Your objection is noted for the record.

25 How do you know that?

1 THE WITNESS: Because they spoke about it in the
2 office while we were there, to go --

3 THE COURT: Who? Did Mr. Bejaoui say something?

4 THE WITNESS: Yes.

5 THE COURT: Do you know what he said?

6 THE WITNESS: I don't remember the exact details, but
7 all I remember is he said he's going to pay for it.

8 THE COURT: Mr. Bejaoui said he would pay for what?

9 THE WITNESS: For Mr. Alged to go for classes in order
10 to obtain an insurance license in order to be able to provide
11 insurance in the office.

12 BY MR. NAWADAY:

13 Q. Do you know if cars always stayed on the same policy?

14 A. No, because there were times where Mr. Alged and Mr. --

15 MR. DRATEL: I object to form, your Honor.

16 THE COURT: Yes. Sustained as to form.

17 The jury will disregard the answer, partial answer.

18 BY MR. NAWADAY:

19 Q. Did you ever hear conversations in the office between
20 Mr. Bejaoui and Mr. Hossam?

21 A. Yes.

22 Q. Were those conversations ever concerning the vehicles that
23 were being insured?

24 A. Yes.

25 Q. What were some of the conversations you remember hearing?

1 THE COURT: Just from the standpoint of what
2 Mr. Bejaoui said.

3 Sir.

4 MR. DRATEL: Also, if we could get a time frame, your
5 Honor.

6 THE COURT: Yes. When were these conversations?

7 THE WITNESS: They were all the time. I mean --

8 THE COURT: In March of 2006?

9 THE WITNESS: Yes. After he, Mr. Alged obtained his
10 license, that's when a lot of the things started happening in
11 the office.

12 THE COURT: Around March, did you hear a conversation
13 by Mr. Bejaoui concerning the vehicles that were being insured?

14 THE WITNESS: Yes.

15 BY MR. NAWADAY:

16 Q. What do you remember Mr. Bejaoui saying about the vehicles
17 that were being insured?

18 A. I -- I don't understand exactly what you want me to --

19 Q. You just said that you remember conversations between
20 Mr. Bejaoui and Mr. Alged?

21 A. Yes.

22 Q. And what do you remember Mr. Bejaoui saying during that
23 conversation?

24 A. Conversations --

25 Q. About insurance policies.

1 A. Conversations about where some vehicles needed to be
2 removed off search policies and put on to other policies. That
3 was the majority of their conversations.

4 Q. Who was saying that the cars needed to be removed from one
5 policy and put on another policy?

6 A. Mr. Bejaoui.

7 Q. Do you know if any of the cars during your time in the
8 office were ever subject to inspection?

9 A. Yes. There was --

10 MR. DRATEL: Objection as to form, your Honor.

11 THE COURT: No. I'll allow it. The answer is yes.

12 Next question.

13 BY MR. NAWADAY:

14 Q. How do you know that?

15 A. There came a time where Mr. Bejaoui required some vehicles
16 to go upstate because there was an inspector coming, so he
17 called and he made me call a couple of the owners to prepare
18 themselves that they would have to go upstate New York for an
19 inspection.

20 THE COURT: You mean a Motor Vehicle Department
21 inspection? Is that what you mean?

22 THE WITNESS: No, it wasn't a Motor Vehicle Department
23 inspection. There was an inspector coming from one of the
24 insurance companies.

25 THE COURT: Oh. All right.

1 THE WITNESS: Yes.

2 BY MR. NAWADAY:

3 Q. You said you handled the paperwork, some of the mailings,
4 for the office, is that right?

5 A. Yes.

6 Q. Do you know if any of Mr. Bejaoui's companies had addresses
7 in upstate New York or Long Island?

8 A. The only one that I remember was one that had a Binghamton
9 address. I don't remember the exact address, but that's the
10 only one.

11 Q. We've spoken about Mr. Hossam Alged a little bit. Did you
12 have a personal relationship at any time with him?

13 A. Yes. This was after I left Mr. Bejaoui's business.

14 Q. Around when did you leave Mr. Bejaoui's business?

15 A. Like the end of August 2006. And me and Mr. Alged were
16 engaged in May of 2007.

17 Q. Did you ever get married to him?

18 A. No.

19 Q. When was the last time you spoke with him?

20 A. October 2007.

21 Q. If a driver or customer had a problem or complaint about
22 their insurance, what did you do?

23 A. I directed them to Mr. Bejaoui.

24 Q. At the time you worked for Mr. Bejaoui, did you ever have
25 any role in filling out the insurance documents?

1 A. No.

2 Q. Do you know what statements were being made in those
3 documents?

4 A. No.

5 MR. NAWADAY: May I have one moment, your Honor.

6 THE COURT: Yes.

7 MR. NAWADAY: No further questions.

8 THE COURT: Thank you.

9 Any cross-examination?

10 MR. DRATEL: Thank you, your Honor.

11 CROSS-EXAMINATION

12 BY MR. DRATEL:

13 Q. Good morning, Ms. Hussein.

14 A. Good morning.

15 Q. Now, initially, you worked for Mr. Tartir?

16 A. Yes.

17 Q. And he's an immigration -- is he still an attorney?

18 A. No.

19 Q. He was arrested, right?

20 A. Yes, he was.

21 Q. For immigration fraud?

22 A. Correct.

23 Q. Convicted?

24 A. Correct.

25 Q. And, initially, Mr. Bejaoui rented space from Mr. Tartir?

1 A. Correct.

2 Q. And Mr. Tartir and Mr. Alged were brothers-in-law?

3 A. Yes.

4 Q. And Mr. Alged himself has been arrested several times in
5 the United States?

6 A. Correct.

7 Q. Now, you were asked about conversations between Mr. Bejaoui
8 and Mr. Alged with respect to vehicles that were insured,
9 right? Do you remember that, just a few minutes ago?

10 A. Yes.

11 Q. In fact, many of those conversations were arguments, right?

12 A. Correct.

13 Q. And they argued over money?

14 A. Yes.

15 Q. Right?

16 A. Correct.

17 Q. And they argued over certain issues with respect to the
18 cars themselves?

19 A. Yes.

20 Q. In fact, the police were called at one point?

21 A. But that was on a personal matter.

22 Q. Now, the account that you said that they were, the account
23 that money you deposited was a company account, correct?

24 A. No. It was a personal account.

25 THE COURT: Were there company accounts, to your

1 knowledge?

2 THE WITNESS: Yes, there was.

3 THE COURT: All right. That's all. I just asked
4 whether there were.

5 THE WITNESS: Okay.

6 THE COURT: Next.

7 BY MR. DRATEL:

8 Q. You've been interviewed a few times by the government,
9 correct?

10 A. Correct.

11 Q. In preparation for your testimony?

12 A. Yes.

13 Q. And, do you recall being interviewed in early December of
14 2012?

15 A. Yes.

16 Q. Did you tell the government at that time that the money was
17 deposited in the company accounts?

18 THE COURT: Do you remember what you told the
19 government?

20 THE WITNESS: I honestly don't remember.

21 THE COURT: All right. Mr. Dratel, the witness does
22 not honestly remember.

23 MR. DRATEL: Your Honor, if you would just give me one
24 second.

25 THE COURT: Yes, of course.

1 MR. DRATEL: Thank you.

2 Q. Let me show you what's marked as 3507B, 3507-B, and I'm
3 going to highlight a portion for you and ask you to look at it.
4 If you could just look at page two of that document, please,
5 and read the highlighted portion to yourself. And I'll ask you
6 whether that refreshes your recollection as to whether you told
7 the government, December 1, 2012, in an interview, that you
8 deposited the cash and money and checks into a company account
9 at Citibank for which Mr. Bejaoui was the signatory.

10 THE COURT: Now, Ms. Hussein, the question is simply
11 whether looking at whatever he showed you refreshes your
12 recollection. It's not what's written there.

13 THE WITNESS: Right.

14 THE COURT: Okay?

15 THE WITNESS: Okay.

16 THE COURT: Does looking at that document refresh your
17 recollection? Either yes or no.

18 THE WITNESS: Yes.

19 THE COURT: What is your refreshed recollection in
20 regard to what you told the government?

21 THE WITNESS: That it was Mr. Bejaoui's company
22 account but with his name on it.

23 BY MR. DRATEL:

24 Q. Thank you.

25 Now, Mr. Alged, when he got his broker's license, made

1 Mr. Bejaoui open an account for him and add him as a signatory,
2 correct?

3 A. Yes.

4 Q. Now, Mr. Alged ultimately stole equipment from Mr. Bejaoui?

5 A. I don't know.

6 Q. Did you not act as a witness for a criminal complaint
7 against Mr. Alged for the stealing of a computer from
8 Mr. Bejaoui's office?

9 A. No, I didn't.

10 Q. I'm going to show you what I'll mark as defendant's 2 and
11 just direct your attention to two parts of this document.

12 MR. DRATEL: If I may, your Honor.

13 MR. NAWADAY: Your Honor, if we can see the document
14 too.

15 MR. DRATEL: Oh. I'm sorry. Sure.

16 Q. I show you what's marked as Defendant's Exhibit 2 for
17 identification and just focus you on two parts here, if I may.
18 One is this part here. You can read that to yourself. And
19 then also just note that part there on the second page, if you
20 could, please.

21 A. Obviously, it wasn't me.

22 Q. Well, does that refresh your recollection?

23 A. No, I don't remember.

24 Q. Do you remember telling the government that you, that
25 Mr. Alged stole a computer from Mr. Bejaoui at the end of their

1 relationship? Did you ever tell the government that?

2 A. No, I don't remember that.

3 Q. Mr. Alged left the United States, correct? Right? Went to
4 Egypt?

5 A. Correct.

6 Q. And when you broke off your engagement with him, it was
7 because you learned, in part, because he was operating an
8 insurance scam against your family, is that correct?

9 A. Correct.

10 Q. He had unlawfully opened up and collected on an insurance
11 policy in your father's name?

12 A. Correct.

13 Q. And you reported that to the police, right?

14 A. Yes.

15 Q. And then he fled the country?

16 A. Correct. Yes.

17 Q. I'm sorry. And also he made a false accusation against
18 you, correct?

19 A. Correct.

20 Q. With the police?

21 A. Correct.

22 Q. And that case was dismissed?

23 A. Yes.

24 Q. It was completely false?

25 A. Correct.

1 Q. Now, you testified this morning about cars going upstate,
2 Mr. Bejaoui directing you to contact drivers to go upstate,
3 correct?

4 A. Correct.

5 Q. And so there were, in the course of your interviews with
6 the government, didn't you tell the government -- withdrawn.

7 In addition to that December 1 interview with the
8 government, you also were interviewed by the government in late
9 December, correct?

10 A. Correct.

11 Q. Would December 21 sound right?

12 A. Yes.

13 Q. And during that interview, didn't you tell the government
14 that you don't think it ever happened, that the drivers went
15 upstate?

16 A. I don't -- I don't think they ever went up there. No.

17 MR. DRATEL: Nothing further, your Honor. Thank you.

18 THE COURT: Anything?

19 MR. NAWADAY: May I have one moment.

20 THE COURT: Yes.

21 MR. NAWADAY: No, your Honor.

22 THE COURT: Thank you, Ms. Hussein. You're excused.
23 You may step down.

24 THE WITNESS: Thank you.

25 (Witness excused)

1 THE COURT: Next witness for the government, please.

2 MR. NAWADAY: Your Honor, the government has another
3 stip to read in.

4 THE COURT: All right. Another stipulation.

5 MR. NAWADAY: This is a stipulation.

6 "It is hereby stipulated and agreed, by and between
7 United States of America, by Preet Bharara, United States
8 Attorney for the Southern District of New York, Rachel Kovner,
9 and Kan Nawaday, Assistant United States Attorneys, of counsel,
10 and Mondher Bejaoui, the defendant, by and through consent of
11 his attorneys, Joshua Dratel and Lindsay Lewis that:

12 "1. Government Exhibit 2000 fairly and accurately
13 depicts the location of 15 Mygatt Street, Binghamton, New York,
14 on the date the photograph was taken in 2012.

15 "Government Exhibit 2001 fairly and accurately depicts
16 the location of 50 Hill Street, Southampton, New York, on the
17 date the photograph was taken in 2012.

18 "Government Exhibit 2002 fairly and accurately depicts
19 the appearance of a mailbox inside the location of 50 Hill
20 Street, Southampton, New York, on the date the photograph was
21 taken in 2012.

22 "Government Exhibit 2003 fairly and accurately depicts
23 the location of 5 Brewster Street, Glen Cove, New York, on the
24 date the photograph was taken in 2012.

25 "Government Exhibit 2004 fairly and accurately depicts

1 the location 15 Mygatt Street, Binghamton, New York, on the
2 date the photograph was taken in 2012.

3 "And it is further stipulated and agreed that
4 Government Exhibits 2000 to 2006, and this stipulation, which
5 is Government Exhibit 2504, may be received in evidence at
6 trial.

7 The government moves Government Exhibit 2504 and
8 Government Exhibits 2000 through 2006 into evidence.

9 THE COURT: Admitted.

10 (Government's Exhibits 2504, 2000-2006 received in
11 evidence)

12 MR. NAWADAY: The government calls Allen Johnson.

13 THE COURT: How long do you think this witness is
14 going to be, sir?

15 MR. NAWADAY: 15 minutes.

16 THE COURT: All right. And the next witness?

17 MR. NAWADAY: 15 minutes. Maybe less.

18 Your Honor, while we're waiting, to move things along,
19 we'd like to read another stipulation.

20 THE COURT: Of course. Three stipulations.

21 MR. NAWADAY: This is a stipulation. It's marked for
22 identification as Government Exhibit 2502. It reads:

23 "It is hereby stipulated and agreed, by and between
24 the United States of America, by Preet Bharara, United States
25 Attorney for the Southern District of New York, Rachel Kovner

1 and Kan Nawaday, Assistant United States Attorneys, of counsel,
2 and Mondher Bejaoui, the defendant, by and through the consent
3 of his attorneys, Joshua Dratel and Lindsay Lewis, that if
4 called to testify, a custodian of records of Sprint/Nextel
5 would testify as follows:

6 "1. He or she is familiar with the record-keeping
7 practices of Sprint/Nextel.

8 "2. Government Exhibits 1700 and 1701A consist of
9 true and correct records, including call records and subscriber
10 information, for the cellular telephone assigned telephone
11 number 917-217-1933, which was assigned to 'Bejaoui Express,
12 Inc.,' from August 12, 2005, through September 23, 2006.

13 "3. Personal identifying information of the previous
14 subscriber has been redacted from Government Exhibit 1701A.

15 "4. The information contained on Government Exhibits
16 1700 and 1701A was recorded by Sprint/Nextel at or near the
17 time that the telephone activity took place, was kept in the
18 regular course of Sprint/Nextel's business activity, and was
19 relied on as a regular practice of Sprint/Nextel.

20 "5. The parties further stipulate and agree that
21 Government Exhibits 1700 and 1701A and this stipulation may be
22 received into evidence as Government Exhibits at trial." And
23 this stipulation, marked for identification as Government
24 Exhibit 2502, has been signed by both parties.

25 The government moves Government Exhibit 2502 and

1 Government Exhibits 1700 and 1701 into evidence.

2 THE COURT: Admitted.

3 (Government's Exhibits 2502, 1700, and 1701A received
4 in evidence)

5 MR. NAWADAY: The government calls Allen Johnson.

6 ALLEN JOHNSON,

7 called as a witness by the Government,

8 having been duly sworn, testified as follows:

9 DIRECT EXAMINATION

10 BY MR. NAWADAY:

11 Q. What do you do for a living?

12 A. I'm retired.

13 Q. Before you retired, what were you doing?

14 A. We owned the mailing, mail and parcel center in Endwell,
15 New York, called Pack & Mail.

16 THE COURT: When you say we, who do you mean?

17 THE WITNESS: My wife and me.

18 BY MR. NAWADAY:

19 Q. What was the name of that?

20 A. Pack & Mail.

21 Q. Where was that store located?

22 A. 518 Hooper Road, Endwell, New York.

23 Q. Back from 2005 through 2007, did you own that Pack & Mail?

24 A. Yes, I did.

25 THE COURT: Where is Endwell, what county?

1 THE WITNESS: Broome County.

2 BY MR. NAWADAY:

3 Q. What town in Broome County was your Pack & Mail?

4 A. It's in Endwell.

5 Q. About how far is Endwell from New York City?

6 A. About 190 miles.

7 Q. How did you get to New York City from Endwell?

8 A. We drove down.

9 Q. About how long did that take?

10 A. About three and a half hours.

11 THE COURT: Was your question about today?

12 BY MR. NAWADAY:

13 Q. When did you arrive in New York City?

14 A. Yesterday.

15 Q. And about how long did it take you?

16 A. It took us three and a half hours.

17 Q. How did you get here?

18 A. With -- we drove down with an automobile.

19 THE COURT: That's about 60 miles an hour, sir.

20 Next question.

21 THE WITNESS: Speed limit's 65.

22 BY MR. NAWADAY:

23 Q. Mr. Johnson, I'm going to hand you what's been marked for
24 identification as Government Exhibits 161 through 163, 2006 and
25 2011. First, starting with 2011, which is in evidence now, by

1 stipulation --

2 MR. NAWADAY: Ms. Ansari, can we please publish 2011.

3 Q. Mr. Johnson, if you look at your screen there, it shows
4 Government Exhibit 2011.

5 A. Yes.

6 Q. What does that appear to you to be?

7 A. It's a Google map.

8 Q. And there's a dot at the upper left-hand corner of that
9 Google map, right?

10 A. Yes.

11 Q. Does that dot in the upper left corner of the map
12 accurately reflect about where Endwell, New York, is located?

13 A. Yes, it does.

14 Q. Then there's a dot in the lower right-hand corner of
15 Government Exhibit 2011. Does that dot accurately reflect
16 about where New York City is located?

17 A. Yes, it does.

18 Q. I'd like you to now look at Government Exhibits 161, 162,
19 and 163. Are you familiar with the Pack & Mail record-keeping
20 procedures?

21 A. Yes, I am.

22 Q. Do you recognize Government Exhibits 161 through 163?

23 A. Yes.

24 Q. What are they, generally?

25 A. They're generally documents that we require for renting a

1 private mailbox at our store.

2 Q. Are those documents kept in the course of regularly
3 conducted business --

4 A. Yes, they are.

5 Q. -- of the Pack & Mail?

6 A. Yes.

7 Q. Sorry. I just ask you to wait until I finish my question.
8 Thank you.

9 Are those documents made and relied upon in the
10 regular practice of Pack & Mail business activity?

11 A. Yes.

12 MR. NAWADAY: The government offers Government
13 Exhibits 161 through 163.

14 MR. DRATEL: No objection.

15 THE COURT: Admitted.

16 (Government's Exhibits 161-163 received in evidence)

17 MR. NAWADAY: Ms. Ansari, if we can just pull up
18 Government Exhibit 161.

19 Q. What are we looking at here?

20 A. That is a fax cover sheet.

21 Q. It says "to: Sue" in the left-hand corner?

22 A. Yes.

23 Q. Do you know a Sue?

24 A. Yes, I do.

25 Q. Does a Sue work at the Pack & Mail?

1 A. Yes.

2 Q. And looking at the fax number below the phone number, do
3 you recognize that number?

4 A. Yes.

5 Q. How do you recognize that phone number?

6 A. That is our fax number at our Endwell location.

7 Q. And there are some documents attached?

8 THE COURT: Are you talking about on the left-hand
9 side of that document or the right-hand side of that document?

10 THE WITNESS: Left-hand side.

11 MR. NAWADAY: Left-hand side.

12 THE COURT: No. I was asking the witness.

13 THE WITNESS: The left-hand side, your Honor.

14 THE COURT: All right.

15 BY MR. NAWADAY:

16 Q. And there are documents attached to this fax?

17 A. Yes.

18 Q. And just the first document that's attached, the first
19 page --

20 A. Yes.

21 MR. NAWADAY: Ms. Ansari, please go to the first page
22 of 161.

23 Q. The handwriting in boxes two through 11, is that your
24 handwriting?

25 A. No.

1 Q. I'm going to ask the same question about the next page. Is
2 that your handwriting?

3 A. No.

4 Q. And looking at 162 and 163, are those also fax cover
5 sheets?

6 A. Yes, they are.

7 Q. Addressed to Sue?

8 A. Yes.

9 Q. And the first page of 162 -- second page, I apologize, is
10 that your handwriting on that document?

11 A. No.

12 Q. And, similarly, the second page of 163, is that your
13 handwriting?

14 A. No.

15 MR. NAWADAY: No further questions of this witness.

16 THE COURT: Thank you.

17 Any cross-examination of this witness?

18 CROSS-EXAMINATION

19 BY MS. LEWIS:

20 Q. Good afternoon, Mr. Johnson.

21 A. Good afternoon.

22 MS. LEWIS: Could you put 2011 back on the map, back
23 on the system, please.

24 Q. I'll just direct your attention to 2011, if you have that
25 there.

1 A. Yes.

2 Q. Can I ask you just how far is Vestal from Endwell on that
3 map there, to your knowledge?

4 A. It's about ten miles.

5 Q. And how far is Endwell from Binghamton?

6 A. About ten miles.

7 MS. LEWIS: Thank you. No further questions.

8 THE COURT: Thank you. You're excused sir, and you
9 may step down.

10 Oh, I'm sorry. Any redirect?

11 MR. NAWADAY: Yes, your Honor.

12 REDIRECT EXAMINATION

13 BY MR. NAWADAY:

14 Q. Mr. Johnson, looking at 2011, does that map fairly and
15 accurately reflect the portions of New York State that are set
16 forth there?

17 A. Yes, it does.

18 MR. NAWADAY: The government offers 2011.

19 MR. DRATEL: No objection.

20 THE COURT: Admitted, 2011.

21 (Government's Exhibit 2011 received in evidence)

22 MR. NAWADAY: No further questions.

23 THE COURT: Any recross?

24 MS. LEWIS: No objection, your Honor.

25 THE COURT: You're excused. You may step down. Thank

1 you.

2 (Witness excused)

3 THE COURT: Next witness for the government.

4 MR. NAWADAY: The government calls Susan Sorochoyman.

5 SUSAN SOROCHMAN,

6 called as a witness by the Government,

7 having been duly sworn, testified as follows:

8 DIRECT EXAMINATION

9 BY MR. NAWADAY:

10 Q. Good morning, ma'am. What do you do for a living?

11 A. I work at Pack & Mail.

12 Q. Where is that Pack & Mail?

13 A. In Endwell, New York.

14 Q. I'll ask you to wait until I finish my questions.

15 A. Oh. Sorry.

16 Q. What's the address of the Pack & Mail in Endwell?

17 A. 518 Hooper Road.

18 Q. How long have you worked at that Pack & Mail?

19 THE WITNESS: Nine and a half years.

20 THE COURT: Do most people call you Susan or Sue, or
21 something else?

22 THE WITNESS: Sue.

23 THE COURT: Sue, that's what you go by?

24 BY MR. NAWADAY:

25 Q. Were you working at that Pack & Mail during the years 2005

1 through 2007?

2 A. Yes.

3 Q. I'd like you to describe the immediate area where this Pack
4 & Mail store was located.

5 A. As far as --

6 Q. The physical description of the immediate area of the Pack
7 & Mail store.

8 A. It's like a business area. There are some residential
9 houses there. But it's in a -- area where it has -- it's a,
10 one big building, and there's three different businesses there.

11 Q. Ms. Sorochman, I'm going to hand you what's already in
12 evidence as Government Exhibits 161 to 163, 2006 and 2011. And
13 I'd like you to look at Government Exhibit 2006.

14 MR. NAWADAY: And I'd ask to please publish 2006.

15 Q. Do you recognize that?

16 A. Yes.

17 Q. What is it?

18 A. It's the Pack & Mail where I work.

19 Q. There are two other stores on that photograph. Looking at
20 the two other stores, can you tell about when those stores were
21 at the Pack & Mail?

22 A. Oh, it's Christmastime.

23 Q. How can you tell that?

24 A. We have the stockings in the windows.

25 Q. Maybe I'll ask the question. Are those two stores still

1 there?

2 A. Yes.

3 Q. Back in 2005 through 2007, were those two stores there next
4 to the Pack & Mail?

5 A. Curves was there, but the Spartan Diner was a Chinese
6 restaurant at the time.

7 Q. Was there ever a taxi or cab company located in that little
8 business area?

9 A. No.

10 Q. Now I want to turn to Government Exhibits 161 and 163 that
11 are in front of you. Actually, before you get there, can you
12 just give a brief description of the interior of the Pack &
13 Mail store?

14 A. When you walk in the door, we have our retail area first.
15 On the side of the store, on the right-hand side when you walk
16 in, there are, all of our mailboxes are right there, would be
17 like up along the side of the outside wall there that you see,
18 and then towards the back is our counter where people would
19 come in, and we pack and ship items that they would bring in,
20 and behind all that is our packing area.

21 Q. You said that there were mailboxes. What are those?

22 A. Mailboxes that people would come and rent. They look like
23 the little boxes that you would see at a post office.

24 Q. Was that one of the services Pack & Mail provided?

25 A. Yes.

1 Q. And what service was that?

2 A. They could have mailboxes there also, if they wanted.

3 Q. I'd now like to look at Government Exhibit 161. Do you
4 recognize that document?

5 A. Yes.

6 Q. What is it?

7 A. It's a fax cover sheet from, it would be Jose. I don't
8 know how to pronounce his last name.

9 Q. And looking on the left side of the document, who is this
10 fax addressed to?

11 A. To Sue.

12 Q. Can you tell if that's you?

13 A. Yes.

14 Q. How can you tell it's you?

15 A. Because I'm the only Sue there.

16 Q. There's also handwriting on this fax cover sheet. Do you
17 recognize it?

18 A. No.

19 Q. I'd like to turn to the second page of this document.
20 Please explain what this document is, if you know.

21 A. This is a Form 1583 for the post office.

22 Q. What is a Form 1583?

23 A. It allows us to receive mail from him. We send this to the
24 post office. That way they know that we have a mailbox for
25 that person.

1 Q. The information set forth in the boxes two through 11, what
2 is that information from?

3 A. From the box holder.

4 Q. Do you recognize that handwriting?

5 A. Yes.

6 Q. Whose is it?

7 A. It's mine.

8 Q. And where did you get this information from that's in boxes
9 two through 11?

10 A. From the box holder. They would have to give me that
11 information.

12 Q. How can a box holder provide this information to you?

13 A. They could call us on the phone. We could do it over the
14 phone, or they come in in person and do it.

15 Q. Is there any way to tell from looking at this document
16 whether this customer came in personally or did this over the
17 phone?

18 A. I can tell, because on the very bottom -- they have to have
19 it notarized, so, and this isn't one of the people that we work
20 with. I opened up the mailbox, so I would have been the person
21 to sign the bottom. And if I didn't sign the bottom, then if
22 they do it outside of Pack & Mail, they have to have it
23 notarized to send back to us.

24 Q. I just want to make sure I understand. Did this person
25 come in in person?

1 A. No. No.

2 Q. How do you know they didn't come in in person?

3 A. Because I filled out everything, and then I faxed it to
4 him, and then he got it notarized and faxed it back to us.

5 Q. I see. So am I right that if you had notarized the
6 document, that would mean that the person came in?

7 A. Yes.

8 Q. Personally?

9 A. Yes.

10 Q. What is the name of the company that's renting this box?

11 A. Heather Limo Corp.

12 Q. Where are you getting that information from?

13 A. From the actual person that wants to open up the mailbox.

14 Q. Where on this document?

15 A. Oh. Where? Is it line nine? I can't make it out.

16 THE COURT: Where it says name of firm or corporation.

17 THE WITNESS: Name of -- address to be used for
18 delivery. Oh, name of firm or corporation. Line nine, yes.

19 BY MR. NAWADAY:

20 Q. What business address is given as Heather Limo Corp.'s
21 business address?

22 A. 15 Mygatt Street in Binghamton.

23 Q. What type of business is it listed as?

24 A. A limo service.

25 Q. I'd like you to look at box 3A. What address is set forth

1 there?

2 A. It's to Heather Limo Corporation, 518 Hooper Road, PMB No.
3 292, in Endwell.

4 Q. Why is 518 Hooper Road the address there?

5 A. That's the address of Pack & Mail.

6 Q. That's where the mail would be received.

7 A. Yes.

8 Q. What does PMB stand for?

9 A. It means private mailbox.

10 Q. What does that correspond to, if anything?

11 A. It's just their own personal -- that's their mailbox.

12 Q. It's the mailbox they're assigned at the Pack & Mail?

13 A. Yes.

14 Q. And there's a number there?

15 A. Yes.

16 Q. What's the number?

17 A. 292.

18 Q. What types of documents are required by Pack & Mail if
19 someone wants to open up a post office box there?

20 A. They need a valid government-issued photo ID, such as a
21 driver's license, and another form of ID that has the same
22 address on it as their driver's license.

23 Q. Are any of those types of documents attached to Government
24 Exhibit 161?

25 A. I see his driver's license.

1 Q. Which document is that? Which page?

2 A. I can't -- is it 827? I can't see the bottom of it.

3 MR. NAWADAY: Ms. Ansari, could you go to the last
4 page of Government Exhibit 161, please.

5 A. That's it.

6 Q. Now I'd like to look at Government Exhibit 162.

7 A. Whoops.

8 Q. What are we looking at here?

9 A. This would be another fax cover sheet.

10 Q. Who is this fax addressed to?

11 A. To Sue.

12 Q. Can you tell if that's you?

13 A. Yes.

14 Q. What is this fax asking you to do?

15 A. The comments on the bottom, he's asking me to forward his
16 mail to 99 Smith Street in Brooklyn and to use a UPS account
17 number.

18 Q. Do you know whose UPS account number that is?

19 A. No, I do not.

20 Q. Is it Pack & Mail's UPS account number?

21 A. No.

22 Q. I'd like to turn to the third page of this document. Are
23 we looking at another 1583?

24 A. Yes.

25 Q. Directing your attention to the name of the corporation,

D4aWbej2

Sorochman - direct

1 which is box nine, what's the name of the firm or corporation
2 that's listed there?

3 A. Hamton Luxury Cars.

4 Q. Do you know if this particular client had multiple
5 companies associated with the same mailbox?

6 A. Yes. If he wanted to add another, you know, name on to the
7 box, he could do that.

8 THE COURT: No. The question was do you know if this
9 particular client, in fact, had multiple companies associated
10 with PMB292.

11 THE WITNESS: Yes.

12 THE COURT: And did he?

13 THE WITNESS: Yes.

14 THE COURT: All right.

15 THE WITNESS: Sorry.

16 BY MR. NAWADAY:

17 Q. And how can you tell that?

18 A. Because I'm the one that opened up the mailboxes, and it
19 would be in our system, on our computer.

20 Q. Now I'd like to look at Government Exhibit 163 and at the
21 second page. What are we looking at here?

22 A. Another 1583.

23 Q. To which mailbox does this 1583 relate?

24 A. 292.

25 Q. What is the name of firm or corporation?

D4aWbej2

Sorochman - direct

1 A. Pedro Limousine.

2 Q. Ms. Sorochman, how can a customer who rents a mailbox
3 obtain the mail that arrives at the mailbox?

4 A. They can either come in in person and pick it up, or they
5 can have us forward their mail to them.

6 Q. Do you know what this particular customer for mailbox 292
7 had done?

8 A. Yes. He had me forward his mail to him.

9 Q. Do you ever remember while you were at the Pack & Mail
10 during this time period seeing this customer come in to pick up
11 mail?

12 A. No.

13 Q. Do you remember the types of mail this particular customer
14 of mailbox 292 received at that time?

15 A. The only thing I can remember was E-ZPass bills, stuff like
16 that, and seemed like tickets, like tickets from -- New York
17 City tickets. That's all I can remember.

18 MR. NAWADAY: No further questions.

19 THE COURT: Thank you.

20 Is there any cross-examination?

21 CROSS-EXAMINATION

22 BY MS. LEWIS:

23 Q. So people don't use Pack & Mail as a place of business,
24 right?

25 A. Pardon me?

D4aWbej2

Sorochman - cross

1 Q. People don't use Pack & Mail as a place of business, right?

2 A. I don't quite understand what you mean.

3 Q. What I'm asking you is it's just a place that they get
4 their mail delivered.

5 A. Right.

6 Q. Correct?

7 A. Yes.

8 Q. If you look again at Exhibit 161, that application there,
9 you can see that the address is just for mail delivery, right?
10 There is a mail delivery address that's your address, correct?

11 A. Yes.

12 Q. And then there's another address that's listed as the place
13 of business address, right?

14 A. Yes.

15 Q. And also, just looking at the first page of that, that was
16 sent by fax, right?

17 A. Yes.

18 Q. Correct? Right? Okay.

19 And on the last page of 161, can you look at that and tell
20 me the name of the notary who notarized that? It's down at the
21 bottom of the page, if you look there.

22 A. I actually can't make out the name, from what I could see.
23 I can't make it out.

24 Q. On the last page, you can't make out the name? There's a
25 stamp there as well you should be able to see, on the last page

D4aWbej2

Sorochman - cross

1 of 161, Exhibit 161.

2 A. Oh. I'm sorry. I can't pronounce it. I'm sorry.

3 Q. Do you want to try to spell it for us?

4 A. The last name --

5 Q. Take a shot.

6 A. T-A-R-T-I-R.

7 Q. What was the first name there?

8 A. I can't make out the first letter. It's either an I,
9 maybe.

10 Q. Okay.

11 A. H-A-B.

12 Q. Okay.

13 A. I can't.

14 Q. Going to the first and second pages, the application there,
15 which I think would actually be two and three of the exhibit,
16 is that the same notary there? The same number? There should
17 be a notary number there as well.

18 A. Yeah. That's what I'm comparing because I can't see the
19 name. It looks like the same person.

20 MS. LEWIS: No further questions.

21 THE COURT: Anything?

22 MR. NAWADAY: Short redirect, your Honor.

23 REDIRECT EXAMINATION

24 BY MR. NAWADAY:

25 Q. Ma'am, you were asked on cross-examination about how the

D4aWbej2

Sorochman - redirect

1 Pack & Mail address is just to receive mail. Do you remember
2 those questions?

3 A. Yes.

4 Q. I'd like to look at first Government Exhibit 161, the
5 second page. Directing your attention to box 3A, where it says
6 address to be used for delivery, what address is there?

7 A. 518 Hooper Road.

8 Q. That's the Pack & Mail address, right?

9 A. Yes.

10 Q. There's also another address at the bottom, am I right?

11 A. Yes.

12 Q. And that's the address, the business address of the company
13 that wants to rent the box, right?

14 A. Yes.

15 Q. What address is there?

16 A. 15 Mygatt Street, in Binghamton.

17 Q. I'd like to ask the same set of questions with Government
18 Exhibit 162. Turning to the second page, what's the business
19 address of Heather Limo Corp. that's set forth on that
20 document?

21 A. 15 Mygatt Street in Binghamton.

22 Q. Then with Government Exhibit 163, the second page of that
23 document, what's the business address set forth for Pedro
24 Limousine?

25 A. This one says 2520 Vestal Parkway East in Vestal.

D4aWbej2

Sorochman - redirect

1 Q. There's another 1583 attached to this document. What's the
2 business address given for Poland Express?

3 A. 5 Brewster Street in Glen Cove, New York.

4 MR. NAWADAY: No further questions.

5 THE COURT: Anything on recross?

6 MS. LEWIS: No further questions, your Honor.

7 THE COURT: Thank you, Ms. Sorochman. You may step
8 down. You are excused.

9 (Witness excused)

10 THE COURT: Ladies and gentlemen, enjoy the lunch.
11 Keep an open mind. You have not heard all of the testimony.
12 It's a beautiful day outside. We'll see you back here -- that
13 is, in the jury deliberation room -- by 2:15. We'll start at
14 2:15. Thank you.

15 (Luncheon recess)

A F T E R N O O N S E S S I O N

2:15 p.m.

(Jury not present)

THE COURT: Bring the jury in. The defendant
continues to be absent.

(Jury present)

THE COURT: Ladies and gentlemen, I can tell you that
your tax dollars are safe with the court system. I normally
take trial notes in a bound notebook, and about once a year I
have to get a new notebook, and the old one ran out, and so I
asked my deputy to speak to the procurement people for a new
book, and they told me that during the sequester they're only
permitted to give out paper and toner. So I'm not going to be
recording anything in a book. I'm just using paper.

Proceed. Next witness.

(Continued on next page)

MR. NAWADAY: The government calls Charles Flender.

CHARLES GALLAGHER FLENDER,

called as a witness by the government,

having been duly sworn, testified as follows:

THE COURT: Good afternoon, sir. Welcome.

THE WITNESS: Thank you.

THE COURT: Your witness, Mr. Nawaday.

DIRECT EXAMINATION

BY MR. NAWADAY:

Q. Good afternoon. What do you do for a living?

A. Currently I'm retired, but for the last ten years I've owned and operated the USP store in Southampton.

Q. What was the address of that UPS store in Southampton?

A. The address was 50 Hill Street, Southampton, New York, 11968.

Q. What county of New York, if you know, is Southampton in?

A. Suffolk County.

Q. About how long did you own and operate that UPS store?

A. Ten years.

Q. Were you operating that UPS store during the years of 2005 through 2007?

A. Yes.

Q. About how far is Southampton from New York City?

A. Approximately a hundred miles.

Q. When did you get to New York City, most recently?

D4AABEJ3ps

Flender - direct

1 A. This morning I came in on the bus and was here
2 approximately 10 a.m.

3 Q. About how long did to take?

4 A. About two hours.

5 Q. Mr. Flender, in front of you is a document marked for
6 identification as Government 2013. Do you see that?

7 A. Yes, I do.

8 Q. Do you recognize it?

9 A. Yes. This is a map of Long Island, and the two points
10 pointed on this clearly indicate Southampton as well as New
11 York City.

12 Q. Is that a fair and accurate map that includes Southampton
13 and New York City?

14 A. Yes.

15 MR. NAWADAY: The government offers Government Exhibit
16 2013.

17 MS. LEWIS: No objection.

18 THE COURT: Admitted.

19 (Government's Exhibit 2013 received in evidence)

20 MR. NAWADAY: Ms. Ansari, if you can please put up
21 Government Exhibit 2013.

22 Q. Mr. Flender, there is a dot on the right-hand side of
23 Government Exhibit 2013. Do you see that?

24 A. Yes, I do.

25 Q. Is that dot about where Southampton is located?

1 A. Yes.

2 Q. And there's another dot on the left-hand side of Government
3 Exhibit 2013. Is that dot about where New York City is
4 located?

5 A. Yes.

6 Q. I'd like you to describe the immediate physical location of
7 your UPS store.

8 A. The UPS store that I own and operate is approximately a
9 thousand square feet. I believe the first two thirds of it are
10 dedicated to the retail section, where you would find our
11 copiers, our cash registers, our counters, and our mailboxes.
12 Last third would probably be the packing and shipping and the
13 bathroom facility.

14 Q. Are there any other businesses near the UPS store?

15 A. There are. The UPS store was located in a little shopping
16 complex. In that business there was a bank. Cable vision had
17 a retail store there. There was a surf shop there. And I also
18 want to say that there was a salon there, a nail and hair salon
19 there.

20 Q. What time period were those other businesses near your UPS
21 store?

22 A. They were pretty much there the entire time that I was
23 there and probably are still there now.

24 Q. Were they there during the years of 2005 through 2007?

25 A. Yes.

1 MR. NAWADAY: Ms. Ansari, if you could put up
2 Government Exhibit 2001, which is already in evidence.

3 Q. Mr. Flender, do you recognize that?

4 A. Yes. That's my -- that's my UPS store, or was.

5 Q. Please describe the services the UPS store provided during
6 the years 2005 to 2007?

7 A. The services that we provided were predominantly packing
8 and shipping, mailbox service, copy service, and some other
9 small services like binding and laminating.

10 THE COURT: Other small services like?

11 THE WITNESS: Binding and laminating. Mostly just
12 business services.

13 Q. Mr. Flender, if you can keep your voice up.

14 A. Certainly.

15 Q. Thank you. You said mailbox service. What do you mean by
16 that?

17 A. We have mailboxes that we rented to customers who needed an
18 address for whatever reason at our store.

19 Q. Please describe physically what those mailboxes look like.

20 A. Not unlike what you would find at the post office, they
21 have a little door. The door probably measures probably about
22 5, 3 inches and the box itself probably about 10 to 12 inches
23 long, where we would put their mail.

24 Q. Did you rent suites?

25 A. I'm sorry?

D4AABEJ3ps

Flender - direct

1 Q. Suites.

2 A. No.

3 Q. Please look at what's been marked for identification as
4 Government Exhibit 164 and 165, which are in those file folders
5 that are in front of you, sir. And first I'll ask you whether
6 you're familiar with the UPS store in Southampton's
7 recordkeeping procedures.

8 A. Yes, I am.

9 Q. And what are, just generally, Government Exhibits marked
10 for identification 164 and 165?

11 A. 164 is the standard application that is required by the
12 post office, the 1583. This is a form that authorizes us to
13 receive mail for individuals at our location.

14 Q. And 165?

15 A. 165 is the application that we would normally have just
16 between us and the customer, just again kind of stating the
17 rules and stipulations about having a mailbox with us.

18 Q. Are those two documents kept in the course of regularly
19 conducted business of the UPS store?

20 A. Yes, they are.

21 Q. Are those documents made and relied upon in the regular
22 practice of your UPS store --

23 A. Yes, they are.

24 Q. -- businesses activity?

25 A. I'm sorry?

D4AABEJ3ps

Flender - direct

1 Q. Your UPS store's business activity.

2 A. Yes.

3 MR. NAWADAY: The government offers Government
4 Exhibits 164 and 165.

5 MS. LEWIS: No objection.

6 THE COURT: Admitted.

7 (Government's Exhibits 164 and 165 received in
8 evidence)

9 Q. Mr. Flender, I'd like to quickly just look at these
10 documents, starting with Government Exhibit 164. Is that the
11 1583 you were talking about?

12 A. Yes, that is.

13 Q. And who is the customer who's renting out the mailbox,
14 according to this form?

15 A. The person that signed down there at the bottom on the
16 right-hand side of it, Bejaoumin, if I'm pronouncing that
17 correctly.

18 Q. Looking at this document, can you tell whether the customer
19 came in person to open up the mailbox or if they did this over
20 the phone or by fax?

21 A. They did this over the phone. It was faxed to us. In
22 order to receive an application faxed to us, they had to have
23 it notarized, which it was done on the bottom left-hand side.

24 Q. And what is the address set forth in box 3A, which is on
25 the right-hand side?

1 A. You mean his address at the UPS store?

2 Q. Yes.

3 A. It was 50 Hill Street. Then it would be the pound sign,
4 529, which is his box number, Southampton, New York, 11968.

5 Q. The 529 is the box number?

6 A. Yes.

7 Q. And what is the business address provided by the client?

8 A. Well, the business address was 5 Brewster Street in Glen
9 Cove, New York, 11542.

10 Q. Where are you getting that information from?

11 A. Would have been supplied by him and/or the documents that
12 he provided as proof of his ID.

13 Q. What are the documents that you typically require to open
14 up a mailbox at your store?

15 A. The first and primary document would be a driver's license.
16 The second form of ID can be a lot of different things, vehicle
17 registration card, any number of things, but what it cannot be
18 is a Social Security card or a credit card.

19 Q. Looking at Government Exhibit 165, what is that document?

20 A. This is simply the mailbox service agreement that we have
21 between ourselves and customers, kind of stating the rules and
22 stipulations of receiving mail at our particular location.

23 Q. Are any of the documents you just described as to this
24 particular service agreement?

25 A. I'm sorry. What was the question again? I'm sorry.

1 Q. If you actually look at the file-folder version that's in
2 front of you of Government Exhibit 165, are there any of the
3 types of identification documents attached?

4 A. Yes. He has his driver's license, it looks like an
5 employment card, as well as his vehicle registration.

6 Q. Do you know if this particular customer picked up or had --
7 or had their mail forwarded?

8 A. They had their mail forwarded. As far as I know, they did
9 not pick up any mail. They never came into the store.

10 Q. Do you remember the types of mail received by this
11 customer?

12 A. Yes, pretty much the only mail that he ever received was a
13 number of letters from something called the New York Taxi and
14 Limousine Commission.

15 Q. Do you remember where the mail was forwarded to?

16 A. I want to say somewhere in Brooklyn, but I, I -- to be
17 honest with you, I'm not a hundred percent sure on that.

18 MR. NAWADAY: No further questions.

19 THE COURT: Any cross-examination?

20 CROSS EXAMINATION

21 BY MS. LEWIS:

22 Q. Good afternoon.

23 A. Hi.

24 Q. Is it possible that people who come up to pick up their
25 mail from the store don't have to actually come to you, right?

1 They can just go to their mailbox?

2 A. So long as they have a key, yes.

3 Q. You might not know if somebody did or didn't come to pick
4 up mail from you?

5 A. That's entirely possible. They could walk in if they had
6 the key and gotten the mail and left.

7 Q. There are no suites there. People don't use the office for
8 a place of business. Right?

9 A. I'm sorry, what was --

10 Q. There are no suites in your office as a place of business?

11 A. Yes, that is correct, there are no suites there.

12 Q. It's just a place to receive mail?

13 A. Just to receive mail only.

14 Q. If you can just look at 164. The address for the place of
15 business is separate from the address for stores, correct?

16 A. Yes.

17 Q. In Glen Cove, New York?

18 A. I'm sorry?

19 Q. It's in Glen Cove, New York?

20 A. His business, he's claiming it was in Glen Cove, New York.

21 Q. Do you know where Glen Cove, New York is?

22 A. I want to say it's on Long Island, probably down maybe
23 about halfway on the North shore, I believe. But I'm -- I
24 don't know for a hundred percent.

25 Q. Do you know how far it is from New York approximately?

D4AABEJ3ps

Flender - cross

1 A. From New York City?

2 Q. Yes.

3 A. 20 miles maybe?

4 Q. OK. And can you just look down at the bottom of that
5 document there, to see who it was notarized by. Do you see
6 that there?

7 A. Yeah, I see where it's notarized, yes.

8 Q. Can you tell me who it is notarized by, that document?

9 A. On the copy I have I'm finding it very difficult to make
10 out who notarized that. I don't see -- I mean, I see the stamp
11 and everything.

12 Q. And I know it has a little bit of writing over the name,
13 but if you can see who the name is there.

14 A. Oh, it looks like I-h-a-b with a middle name of H and, if
15 I'm reading this correctly, T-a-r-u-r. Again, it's a little
16 hard to read.

17 Q. Tartir, is that what you said?

18 A. Yeah, Tahur or something. It's a little hard to read on
19 the form. Oh, yeah, there it is, on the screen.

20 MS. LEWIS: Nothing further.

21 THE COURT: Any redirect?

22 MR. NAWADAY: No, your Honor.

23 THE COURT: Thank you, sir. You're excused. You may
24 step down.

25 (Witness excused)

D4AABEJ3ps

Flender - cross

MR. NAWADAY: The government calls Dale Hoppough.

DALE HOPPOUGH,

called as a witness by the government,

having been duly sworn, testified as follows:

THE COURT: Good afternoon, Mr. Hoppough.

Your witness, Mr. Nawaday.

DIRECT EXAMINATION

BY MR. NAWADAY:

Q. Good afternoon. What do you do for a living?

A. I'm a manager of a UPS store in Vestal, New York.

Q. What county is Vestal, New York in?

A. Broome County.

Q. About how long have you worked at that store?

A. Four years.

Q. About how far is Vestal, New York, from New York City?

A. About 190 miles.

Q. When did you arrive in New York City most recently?

A. When did I arrive? Yesterday afternoon.

Q. How did you get here?

A. Drove.

Q. About how long did it take?

A. A little over three hours.

Q. Mr. Hoppough, I'm going to hand you Government Exhibits 155

through 160, which have been marked for identification,

Government Exhibits 2004 and 2005, which are in evidence, and

D4AABEJ3ps

Hoppough - direct

1 Government Exhibit 2009, which is marked for identification.

2 And starting with Government Exhibit 2009, do you recognize
3 that document?

4 A. Yes.

5 Q. Is that a fair and accurate map of New York State which
6 includes New York City and Vestal, New York?

7 A. Yes.

8 MR. NAWADAY: The government offers Government Exhibit
9 2009.

10 MS. LEWIS: No objection.

11 THE COURT: Admitted.

12 (Government's Exhibit 2009 received in evidence)

13 MR. NAWADAY: Ms. Ansari, if you can put that exhibit
14 up, Government Exhibit 2009.

15 Q. Mr. Hoppough, does the dot on the left-hand side of
16 Government Exhibit 2009, is that about where Vestal, New York
17 is?

18 A. Yes.

19 Q. And the dot on the lower right-hand side of Government
20 Exhibit 2009, is that about where New York City is?

21 A. Yes.

22 Q. And please look at Government Exhibit 2004, which is in
23 evidence. That should be in one of the file folders in front
24 of you. Do you recognize that?

25 A. Yes. It's my UPS store, where I worked.

1 Q. What other stores if any are located now near that UPS
2 store?

3 A. A nail salon, Sprint, and the Hertz Rental Car.

4 Q. Does the UPS store -- well, first, what are your duties at
5 the UPS store?

6 A. I manage pretty much everything -- customer service, paying
7 the bills, QuickBooks, opening mailboxes, copying --
8 everything.

9 Q. Am I right that the UPS store provides mailbox services?

10 A. Yes.

11 Q. And that's so that people can rent mailboxes there.

12 A. Absolutely.

13 Q. Are there any suites that the mailbox UPS store rents?

14 A. No.

15 Q. Now please look at Government Exhibits 155 through 160. Do
16 you recognize those documents?

17 A. Mm-hmm, mailbox agreement.

18 Q. Are you familiar with the recordkeeping procedures of the
19 UPS store in Vestal, New York?

20 A. Yes.

21 Q. Are these documents marked for identification which are
22 Government Exhibits 155 through 160 records of the UPS store in
23 Vestal?

24 A. Yes.

25 Q. Are those documents kept in the course of regularly

D4AABEJ3ps

Hoppough - direct

1 conducted business of the UPS store in Vestal?

2 A. Yes.

3 Q. Are they made in the regular practice of the UPS store's
4 activity?

5 A. Yes.

6 MR. NAWADAY: The government offers Government
7 Exhibits 155 through 160.

8 MS. LEWIS: No objection.

9 THE COURT: Admitted.

10 (Government's Exhibits 155-160 received in evidence)

11 Q. Mr. Hoppough, I just want to ask about a couple of these
12 documents. First, Government Exhibit 155. Ms. Ansari, if you
13 can pull that up, please. Mr. Hoppough, what is this document?

14 A. It's the mailbox service agreement, customer's name,
15 address, phone number.

16 Q. And who is the customer listed?

17 A. Ziad Ksouri.

18 Q. Is there a work phone listed?

19 A. Yes, under the work phone, it says (917) 217-1933.

20 Q. Then if you can turn to Government Exhibit 156. And
21 there's a better copy of the second page of this document. Is
22 this a 1583?

23 A. Yes. It's a form 1583 that's filed with the local post
24 office that will deliver Ziad Ksouri's mail to our business for
25 his mailbox.

D4AABEJ3ps

Hoppough - direct

1 Q. And in box 13, and box 5, is there a name besides Ziad
2 Ksouri on this document?

3 A. It is.

4 Q. What is that name?

5 A. I'm sorry. I didn't hear you.

6 Q. What is the name that's there, that's there in addition to
7 Ziad Ksouri?

8 A. Bejaoui Modor, Mondher.

9 Q. What is the name of the firm, corporation that's set forth
10 in box 9 of this document?

11 A. Hamton Luxury Cars.

12 Q. What's the business address that's set forth?

13 A. 15 Mygatt Street, Binghamton, New York, 13905.

14 Q. Is there a business telephone number set forth there?

15 A. (917) 217-1933.

16 Q. Going back to Government Exhibit 155, can you tell what the
17 assigned mailbox was for this company, Hamton Luxury Cars,
18 Inc.?

19 A. Yes. Mailbox no. 387.

20 Q. And then looking at Government Exhibit 159, what are those
21 documents?

22 A. This is a copy of a New York State driver's license.

23 MR. NAWADAY: Ms. Ansari, can you put up --

24 Q. Is it just one license?

25 A. Yes.

1 MR. NAWADAY: Ms. Ansari, if you can just go to the
2 next page of 159.

3 A. And a copy of another driver's license for both people that
4 opened the mailbox.

5 MR. NAWADAY: No further questions, your Honor.

6 THE COURT: Anything on cross.

7 CROSS EXAMINATION

8 BY MS. LEWIS:

9 Q. Good afternoon. You mentioned that there's a Hertz rental
10 car company in the same lot as your store, correct?

11 A. I'm sorry, I didn't hear you.

12 Q. You mentioned that there was a Hertz rental car company in
13 the same lot as your store, correct?

14 A. Yes.

15 Q. And were the cars for that Hertz rental car company present
16 there, or was that just a store front?

17 A. There are cars present for Hertz, yes.

18 MS. LEWIS: No further questions.

19 MR. NAWADAY: If I may ask some redirect.

20 THE COURT: Yes.

21 REDIRECT EXAMINATION

22 BY MR. NAWADAY:

23 Q. Mr. Hoppough, do you know if there was a taxi service that
24 was there during the time that you were working at the UPS
25 store in Vestal, New York?

1 A. No. There's never been a taxi service. And Hertz moved in
2 in April of '08.

3 MR. NAWADAY: No further questions.

4 MS. LEWIS: Flow further questions.

5 THE COURT: Thank you. You are excused, sir. You may
6 step down. Thank you. Drive carefully on the way home.

7 (Witness excused)

8 THE COURT: Next witness, government?

9 MR. NAWADAY: Yes. The government calls Gregorio
10 Cherie.

11 GREGORIO CHERIE,

12 called as a witness by the government,

13 having been duly sworn, testified as follows:

14 THE COURT: Good afternoon, sir. Please be seated.
15 Pull the microphone to you, pull it down or up, make it close
16 to your mouth.

17 Your witness, Mr. Nawaday.

18 DIRECT EXAMINATION

19 BY MR. NAWADAY:

20 Q. What do you do for a living?

21 A. I am a business development supervisor for American Transit
22 Insurance Company.

23 Q. How long have you been with American Transit?

24 A. Five and a half years.

25 Q. Generally what are your current duties at American Transit?

D4AABEJ3ps

Cherie - direct

1 A. I'm a client representative. I visit brokers. I do
2 marketing. I advertise the credit company.

3 Q. Do you know what underwriting is?

4 A. Yes.

5 Q. What is it?

6 A. Underwriting is the process of analyzing risks for purposes
7 of insurance and to provide pricing on insurance for a client.

8 Q. During your career, have you ever done underwriting?

9 A. Yes.

10 Q. Where is American Transit currently located?

11 A. Currently we are located at One Metro Tech Center,
12 Brooklyn, New York, 11201.

13 Q. Do you know where American Transit was located in 2005,
14 2007?

15 A. Yes. We were at 330 West 34th Street, Manhattan, New York,
16 New York.

17 Q. Please describe generally American Transit's business.

18 A. American Transit is a domestic carrier that provides public
19 livery, public transportation, vehicles for hire, taxis, black
20 car, medallion. That's our nature business.

21 Q. And you mean provides insurance for those types of
22 businesses?

23 A. That's correct.

24 Q. You mentioned public auto insurance. What is that?

25 A. It's the vehicles for hire, taxicabs, pretty much.

D4AABEJ3ps

Cherie - direct

1 Q. Does it include insurance for livery cabs?

2 A. That's correct.

3 Q. Are you familiar with the New York Automobile Insurance
4 Plan?

5 A. Yes.

6 Q. Just generally what is that?

7 A. It's a pool. It's a nonprofit organization created by the
8 state to provide insurance for folks that cannot get insurance
9 in the voluntary market.

10 Q. Do you know if American Transit during the period of 2005,
11 2007, whether American Transit was a participant in that?

12 A. Yes.

13 Q. Mr. Cherie, are you familiar with American Transit's
14 recordkeeping procedures?

15 A. Yes.

16 Q. I'm going to bring up to you a stack of documents. I'm
17 going to hand you what have been marked for -- well, first,
18 documents that are already in evidence, which are Government
19 Exhibits 200, 250, 350, and 351. And then I'm going to hand
20 you documents which include Government Exhibits 201 through
21 244, 251 through 282, 352, and 353. Sir, I'd ask you to go
22 through these and first tell me if you've seen them before in
23 preparing for your testimony today. Take your time.

24 A. (Pause)

25 Q. Sir, have you had an opportunity to look through Government

D4AABEJ3ps

Cherie - direct

1 Exhibits 200 through 244, 250 through 282, 350 through 352?

2 A. Yes.

3 Q. Are those records of American Transit?

4 A. Yes.

5 Q. Are those records that were made overseas in the regular
6 practice of American Transit's business activity?

7 A. Yes.

8 Q. Are those records kept in the course of American Transit's
9 regularly conducted business?

10 A. Yes.

11 MR. NAWADAY: The government offers Government
12 Exhibits 201 through 244, 251 through 282, and 352.

13 MR. DRATEL: No objection, your Honor.

14 THE COURT: Admitted.

15 (Government's Exhibits 201 through 244, 251 through
16 282, and 352 received in evidence)

17 Q. Mr. Cherie, I'd like to first focus on the exhibits that
18 are marked and in evidence now as Government Exhibits 200
19 through 244. Who is the insured on those particular records?

20 A. The insured is Bejaoui Express, Inc.

21 MR. NAWADAY: And Ms. Ansari, if you can pull up
22 Government Exhibit 200.

23 Q. Do you recognize that document?

24 A. Yes.

25 Q. What is it?

D4AABEJ3ps

Cherie - direct

1 A. It's a change request -- no, I'm sorry. It's an
2 application from the plan.

3 Q. Who's the insured?

4 A. The insured is Bejaoui Express, Inc.

5 Q. And who is the producer?

6 A. The producer is Gheith Insurance Agency, Inc.

7 Q. What is an applicant?

8 A. An applicant is a prospective client requesting insurance.

9 Q. What is the applicant's address as set forth on this
10 application?

11 A. It's 5 Brewster Street, 118, Glen Cove, Nassau, New York
12 11542.

13 Q. Are there any documents attached to this particular
14 application? And I'll ask you to look at the actual physical
15 exhibit in front of you, no. 200.

16 A. Yes.

17 Q. What kinds of documents are they?

18 A. There's license. There is abstract, motor vehicles report.
19 There is supporting documentation.

20 Q. I would like to turn back to the first page of Government
21 Exhibit 200. Do you see there in Section 4 the vehicles
22 listed? Do you see that, sir?

23 A. Yes.

24 Q. There is also a column for rating territory?

25 A. That's correct.

1 Q. And the number? What is the rating territory?

2 A. The rating territory is the location of where the vehicle
3 is going to be rated.

4 Q. What does that mean?

5 A. That means that according to the territory, the vehicle
6 will be priced at that location.

7 Q. Am I right that the territory --

8 MR. DRATEL: Objection. Leading.

9 THE COURT: Yes, sustained.

10 Q. What is the territory that's set forth on the first page of
11 Government Exhibit 200, both vehicles listed?

12 A. The territory is the garaging location of the vehicle and
13 where the manual tells you what the pricing is going to be for
14 this particular vehicle.

15 Q. Is there a territory code listed there?

16 A. That's -- yes.

17 Q. And what is that code?

18 A. 22.

19 Q. Do you know what that code corresponds to?

20 A. Nassau County.

21 Q. How does one figure that out?

22 A. The manual, the NYAIP provides a manual where you have
23 territories listed according to the county and it gives you a
24 code. Based on that, you know that the territory is 22.

25 Q. Does the territory rating affect the cost of the insurance?

D4AABEJ3ps

Cherie - direct

1 A. Yes.

2 Q. How is that?

3 A. According to the territory, the location, the territory,
4 the insurance will be priced.

5 Q. Who sets what the price of a particular rating territory
6 is?

7 A. The state does.

8 Q. And where do you find that provision?

9 A. You find it in an NYAIP manual.

10 Q. Do you know if American Transit relies on the rating
11 territory in determining the insurance charge?

12 A. Yes.

13 Q. I'd like you to turn to Government Exhibit 201. Do you
14 recognize that document?

15 A. Yes.

16 Q. What is it?

17 A. It's a declaration page.

18 Q. What is a declaration page?

19 A. It is, once a policy is issued, the output is a declaration
20 page that indicates the pricing, indicates the name and the
21 description of what limits the policy will have.

22 Q. Who generates a declaration?

23 A. American Transit generates the declaration.

24 Q. And what if anything triggers the creation of a
25 declaration?

D4AABEJ3ps

Cherie - direct

1 A. The issuance of a policy triggers the declaration.

2 Q. Is there anything else that can trigger a declaration?

3 A. No.

4 Q. What happens if someone wants to change a policy by adding
5 a vehicle?

6 A. A mandatory declaration will be produced based on the
7 change request.

8 Q. And which policy does this declaration apply to?

9 A. The policy number ARC738305. The insured is Bejaoui
10 Express Inc.

11 Q. After American Transit generates the declaration, is it
12 sent to anyone?

13 A. It's send to the insured, the broker, and a copy will be
14 kept with the company.

15 Q. I'd like to walk through the types of information on the
16 declaration. Is there anything indicating the vehicles that
17 are covered at the time on the declaration?

18 A. Yes.

19 Q. Where is that?

20 A. That will be on schedule 2 of the declaration.

21 MR. NAWADAY: Ms. Ansari, if you can advance to
22 page 3.

23 Q. Is that the statement you are you're talking about?

24 A. That's correct.

25 (Continued on next page)

D4aWbej4

Cherie - direct

1 Q. Is that the schedule two you're talking about?

2 A. That's correct.

3 Q. How are the vehicles described?

4 A. The year, make, VIN number.

5 Q. Is the territory also designated for each of the vehicles?

6 A. Yes.

7 Q. What's the territory code that's set forth for these two
8 vehicles?

9 A. Territory 22.

10 Q. I'd like to look at the policy change request form.

11 MR. NAWADAY: Ms. Ansari, if you could pull up
12 Government Exhibit 237.

13 Q. Mr. Cherie, if you could also go to that exhibit as well,
14 Government Exhibit 237.

15 MR. NAWADAY: I apologize, your Honor. It's still
16 loading.

17 THE COURT: That's all right.

18 BY MR. NAWADAY:

19 Q. So what are we looking at on 237? What is this document?

20 A. This is a change request from the New York Automobile plan
21 form.

22 Q. What is a change request form?

23 A. It is a request from the broker to make a change on the
24 policy.

25 Q. Who is the insured for this particular change request?

D4aWbej4

Cherie - direct

1 A. Bejaoui Express, Inc.

2 Q. Where are you looking?

3 A. On the change request.

4 Q. Where on the document do you see the name of the insured?

5 I'll direct you to the upper left-hand corner.

6 A. Upper left-hand corner.

7 Q. What is the change that's being requested through this
8 document?

9 A. They're requesting to add a vehicle to the policy.

10 Q. How can you tell that? Where are you looking?

11 A. If you go to section two, vehicle addition, it has a year,
12 make, VIN number, and it has the box checked "added," meaning
13 that they want to add a vehicle.

14 Q. Is this document signed?

15 A. Yes.

16 Q. What is the title of the person who signed on the lower
17 left-hand side?

18 A. President.

19 Q. On the lower left hand, is there a signature of a producer
20 on this document?

21 A. Yes.

22 Q. Is the insured's signature on this document?

23 A. Yes.

24 Q. I'd like to go back to Government Exhibit 214. What is
25 that document?

D4aWbej4

Cherie - direct

1 A. It's an amendatory endorsement. It's a change request of
2 output from American Transit Insurance Company.

3 Q. What is this document memorializing?

4 A. Repeat that?

5 Q. What does this document memorialize?

6 A. It represents additional vehicle endorsement. It shows
7 that a vehicle has been added to the policy.

8 Q. Is that in the remarks section on the bottom portion of the
9 first page of Government Exhibit 214?

10 A. Yes. It shows that it added a vehicle, 1999 Chevy, and
11 they deleted a '96 Lincoln.

12 Q. Can you tell by comparing Government Exhibit 214 and 237
13 whether they're related in any way?

14 A. Yes.

15 Q. How are they related?

16 A. They're adding the vehicle, and you could check by the VIN
17 number that the vehicle that was requested was added as of this
18 date.

19 Q. What vehicle was that?

20 A. That's the 1999 Chevy.

21 Q. Going back to Government Exhibit 214, does that amended
22 endorsement also contain a schedule of the covered vehicles on
23 this policy at that time?

24 A. Yes.

25 MR. NAWADAY: Ms. Ansari, could you advance, please,

D4aWbej4

Cherie - direct

1 to the fourth page of Government Exhibit 214.

2 Q. Is that the schedule of covered automobiles at that time?

3 A. Yes.

4 Q. How many vehicles are covered at this time, under this
5 policy?

6 A. 31.

7 Q. Is there a rating territory for the vehicles set forth on
8 this schedule?

9 A. Yes.

10 Q. What is the rating territory?

11 A. 22.

12 Q. Having reviewed Government Exhibits 200 through 244, are
13 there other amendatory endorsements contained among those
14 documents?

15 A. Yes.

16 Q. I'd like to turn to Government Exhibit 243. What is this
17 document?

18 A. This is a correspondence from Bejaoui Express, Inc.

19 Q. Besides this piece of correspondence -- withdrawn.

20 Is there a telephone number provided in the fax cover
21 sheet next to the cc?

22 A. Yes.

23 Q. What is that telephone number?

24 A. 917-217-1933.

25 Q. I'd like to move to Government Exhibit 244. Do you

D4aWbej4

Cherie - direct

1 recognize that document?

2 A. Yes.

3 Q. What is it?

4 A. It's a notice of reinstatement for, from American Transit
5 Insurance Company.

6 Q. What is a notice of reinstatement?

7 A. If a policy is put on notice of cancellation, if the
8 payment is made, correspondence or letter will be sent out as a
9 reinstatement saying that the policy's been reinstated and it's
10 now -- there's no lapse in coverage and it's valid.

11 Q. What's the effective date of the policy reinstatement?

12 A. January 3, 2006.

13 Q. I'd like to move to Government Exhibits 250 through 282.
14 Who is the insured for those documents?

15 A. Vestal Limousine Corp.

16 Q. First I'd like to look at Government Exhibit 250. What is
17 that?

18 A. This is application from NYAIP, from the plan.

19 Q. Who is the applicant?

20 A. The applicant is Vestal Limousine Corp.

21 Q. Is there a home telephone number provided for the
22 applicant?

23 A. Yes.

24 Q. What is that?

25 A. 917-217-1933.

D4aWbej4

Cherie - direct

1 Q. Who is listed as the president on this application? And
2 I'll direct your attention to the section three, ownership and
3 control of applicant's organization.

4 A. It's Sadok Mejri.

5 Q. There's also a vehicle listed in section four.

6 A. Yes.

7 Q. What is the rating territory set forth there?

8 A. Rating territory is 28.

9 Q. Do you know what rating territory 28 corresponds to?

10 A. I believe it's Broome County.

11 Q. Again, does American Transit rely on the rating territory
12 in determining the insurance rate to charge?

13 A. Yes.

14 Q. What is the applicant's address that's provided? And I
15 direct your attention to section two of the first page of
16 Government Exhibit 250.

17 A. The address is 2520 Vestal Parkway East, suite two. City,
18 Vestal. County, Broome. State, New York. Zip code, 13850.

19 Q. Among the Vestal insurance documents in front of you, are
20 there also policy change request forms like the ones we saw for
21 the Bejaoui Express policy?

22 A. Yes.

23 Q. I'd like to turn to just one of those, Government Exhibit
24 269.

25 MR. NAWADAY: Actually, I misspoke. 273. I

D4aWbej4

Cherie - direct

1 apologize, your Honor. Could I have one moment.

2 THE COURT: Yes.

3 MR. NAWADAY: I apologize. 268.

4 Q. What is that?

5 A. This is a correspondence.

6 Q. Is there a policy change request attached to that fax cover
7 sheet? Just turn to the second page.

8 A. Yes.

9 Q. What is this policy change request requesting?

10 A. It's the addition of a vehicle, a 2006 GMC.

11 Q. Is the rating territory provided for the 2006 GMC?

12 A. Yes.

13 Q. Are there any other documents in support of this change
14 request attached?

15 A. Yes.

16 Q. What is that?

17 A. The title. It's the title of the vehicle requested to add.

18 Q. Is there anything else attached to that, on this document,
19 268?

20 MR. NAWADAY: That's it? Thank you.

21 Q. I'd like to turn to 269. Comparing 268 and 269, do these
22 appear to be related in any way? And you should probably look
23 at the actual documents in front of you instead of the screen,
24 sir. Thank you.

25 A. The vehicles added are the same.

D4aWbej4

Cherie - direct

1 Q. Does one of the exhibits in front of you have an envelope
2 attached, a copy of an envelope?

3 A. Yes.

4 Q. Which Government Exhibit is that?

5 A. It is from Gheith Insurance Agency.

6 Q. Which exhibit are you looking at, sir?

7 A. 269.

8 Q. I'd like to look at Government Exhibit 273. Is that a fax
9 cover sheet attaching another change request form?

10 A. Yes.

11 Q. Is there any supporting documentation attached to
12 Government Exhibit 273?

13 A. Yes. There's a title attached to the exhibit.

14 Q. What is the name on that title, if you can tell?

15 MR. NAWADAY: Ms. Ansari, if you could, advance to the
16 last page of Government Exhibit 273. Thank you.

17 A. I think it's Souman Aboubacar.

18 Q. Now I'd like to turn to Government Exhibits 350 to 353.
19 Starting with 350, what is that?

20 A. It is an application from the plan.

21 Q. Who is the applicant?

22 A. Pedro Limousine Corporation.

23 Q. What is the address given for the applicant?

24 A. 518 Hopper -- Hooper Road, 292, Endwell, Broome, New York,
25 13760.

D4aWbej4

Cherie - direct

1 Q. Is that application signed?

2 A. Yes.

3 Q. Can you tell from this application what the rating
4 territory is on this policy application?

5 A. Rating territory is 28.

6 Q. Do you know what rerating is?

7 A. Yes.

8 Q. What is that? What is rerating?

9 A. Rerating?

10 Q. Yes.

11 A. Oh, when the, when you rate the policy or the application
12 with another, with another territory number.

13 MR. NAWADAY: Ms. Ansari, we can take the exhibit
14 down. Thank you.

15 Q. In your review of these policy documents, were any of the
16 cars ever rerated because the territory was changed at the
17 initiative of American Transit?

18 A. No.

19 Q. Mr. Cherie, did there come a time when you were asked to
20 run a report of insurance claims that were filed in connection
21 with these three policies we've been talking about?

22 A. Yes.

23 Q. I'm going to hand to you what's been marked for
24 identification as Government Exhibit 3000A.

25 A. Yes.

D4aWbej4

Cherie - direct

1 Q. Please look at that and tell me if you recognize that
2 document.

3 A. Yes.

4 Q. What is it?

5 A. It's a claim detail report of the policies, Bejaoui
6 Express, Vestal Limousine Corp., and Pedro Limousine Corp.

7 Q. How did you create that chart? Let me back up.

8 Did you create that chart?

9 A. This is a report from our system, data provided from our
10 system, to give us the claims for these three policies.

11 Q. Are the records which are contained in that database from
12 which this chart was created kept in the course of the
13 regularly conducted business of American Transit?

14 A. Yes.

15 Q. Are the records in that database made or received in the
16 regular practice of American Transit's business?

17 A. Yes.

18 MR. NAWADAY: The government offers Government Exhibit
19 3000A.

20 MR. DRATEL: No objection, your Honor.

21 THE COURT: Admitted.

22 (Government's Exhibit 3000A received in evidence)

23 MR. NAWADAY: Ms. Ansari, could you put 3000A up.

24 Thank you.

25 Q. Mr. Cherie, I'd like to just walk through quickly what's on

D4aWbej4

Cherie - direct

1 Government Exhibit 3000A. What does this document set forth?

2 A. This document is claims by location. It basically tells
3 you the date of the accident, who the policy belongs to and who
4 the name insured is. You know, the claim number, which is
5 unique to the, that occurrence or that loss, or in location of
6 that accident, the city and what territory was, is attached to
7 that actual location where the accident occurred.

8 Q. So the territory on the right-hand side, what does that
9 correspond to?

10 A. That correspond to the city and the location of the
11 accident.

12 Q. And then which policies are set forth on this chart?

13 A. Policy ARC738305, which is Bejaoui Express. Policy
14 ARC740797, which is Vestal Limo Corp. And policy ARC741860,
15 which is Pedro Limousine Corp.

16 Q. What does claim mean?

17 A. Claim, claim, claim number here definite, just means a
18 unique number given by the company for an accident that
19 happened. In order for the company to be able to search for
20 that particular accident for that policy, we give it a number
21 that's happened to be the claim.

22 Q. I guess I'm trying to get at more generally what a claim
23 is.

24 A. It's an accident. It's -- a claim is an occurrence, it's
25 when an accident happen, and you have a loss.

D4aWbej4

Cherie - direct

1 Q. Am I right that at some point somebody put in a claim?

2 A. That's correct.

3 Q. With the insurance company?

4 A. That's correct.

5 Q. Under these policies?

6 A. That's correct.

7 Q. Did there come a time when you were asked to conduct an
8 analysis of the policies we've been talking about?

9 A. Yes.

10 Q. What were you asked to do?

11 MR. DRATEL: Objection.

12 BY MR. NAWADAY:

13 Q. What did you do?

14 A. I looked at the territories, in terms of where the policies
15 were rated, and I looked at the contrast or comparison where
16 territory, territory of Brooklyn, Manhattan and contrasted the
17 rates to find out if there was any discrepancies.

18 Q. What do you mean contrasted the rates?

19 A. Well, there's a difference in premium for a policy that was
20 rated in Nassau County with a policy that was rated in
21 Brooklyn, Queens, or the Bronx, for example. Once the analysis
22 was completed and we used Brooklyn and Manhattan in comparison
23 to Nassau County, we found out that the discrepancy in premium
24 was higher in the boroughs than it was in Nassau County or
25 Broome County, in terms of these policies.

D4aWbej4

Cherie - direct

1 Q. What documents did you use to do that analysis?

2 A. We used the current documents provided for the policies.
3 And the manual for the NYAIP.

4 Q. When you say current, do you mean the policy documents in
5 front of you?

6 A. That's correct.

7 Q. I'm going to hand you what's been marked for identification
8 as Government Exhibit 3000. Do you recognize that?

9 A. Yes.

10 Q. What is it?

11 A. This is an analysis of loss calculation basically saying if
12 these documents with these vehicles were rated in territory 17
13 or territory 18, which is correspondingly Brooklyn and
14 Manhattan, in comparison with where they were rated with the
15 documents provided, what the difference in premiums would have
16 been.

17 Q. What documents did you use to create this chart?

18 A. The documents used to create this chart was the documents I
19 was provided for the policy that was provided in 2005, the
20 documents that we have in front of us, and the manual pages at
21 the date of -- that these policies were issued.

22 Q. Which manual are you talking about?

23 A. The NYAIP manual.

24 MR. NAWADAY: The government offers Government Exhibit
25 3000.

D4aWbej4

Cherie - direct

1 MR. DRATEL: No objection, your Honor.

2 THE COURT: Admitted without objection.

3 (Government's Exhibit 3000 received in evidence)

4 MR. NAWADAY: Ms. Ansari, put up Government Exhibit
5 3000.

6 Q. Mr. Cherie, I'd like you to walk us through what's on this
7 chart.

8 A. All right.

9 Q. First, starting in the left-hand side, there's a notation,
10 calculation based on territories 17 and 18, Brooklyn and
11 Manhattan. And then just going across, please explain
12 according to column the information on each column.

13 A. Not a problem. The first, top portion of this spread sheet
14 depicts the territory, the policy date, the effective date, and
15 the name of the insured. Give you the policy number, the
16 effective dates of the period, of the term. Subsequent column
17 give you the territory and the city or county the territory is
18 in. In this case, 17 for Brooklyn, 18 for Manhattan, 22 for
19 Nassau County.

20 Then we have schedule of vehicles, corresponding to the
21 documentation that American Transit had at the time was 25
22 vehicles and five vehicles with two different classifications.
23 Then we have rate, which is BI rate for those, those vehicles,
24 the PD rate for those vehicles, the additional PIP for those
25 vehicles, and the UM for those vehicles.

D4aWbej4

Cherie - direct

1 All these numbers were provided or gotten from the NYAIP
2 manual 2005 rates.

3 Q. Okay. I want to just go back through everything you've
4 just said in a little more detail.

5 A. All right.

6 Q. On the schedule of vehicles, the first row says 25 vehicles
7 at 4289. What does that mean?

8 A. That simply means that 25 vehicles in the classification of
9 4289, which is a limousine classification.

10 Q. Then it says five vehicles at 5703.

11 A. That simply means five vehicles at taxi/all other
12 classification.

13 Q. How did you determine that there were 25 vehicles at
14 classification 4289 and five vehicles at classification 5703?

15 A. These are corresponding numbers from the dec pages of
16 American Transit documentation.

17 Q. Relating to which policy?

18 A. Related to Bejaoui Express, Inc., ARC738305.

19 Q. Moving to the next column, which is titled BI rate, what
20 does that mean?

21 A. That means bodily injury rate. That simply means the total
22 compilation of each vehicle rate was a total of \$110,075 for
23 that classification, 4289. And for the five vehicles at
24 classification 5703, a total for the bodily injury rate was
25 \$56,715.

D4aWbej4

Cherie - direct

1 Q. What does PD mean?

2 A. PD means property damage rate.

3 Q. How did you determine property damage rate set forth next
4 to the row for the 25 vehicles in the taxi and limousine
5 classification?

6 A. The determination was based on 25 vehicles at a property
7 damage rate, that's the total cumulative number, 38,737.50.
8 And for five vehicles at 5703, which is the taxi/all other, the
9 total for each vehicle would be 10,575.

10 Q. What does the next column's heading mean, additional PIP?

11 A. Additional personal injury protection. That is the same
12 calculation. 25 vehicles at the additional personal injury
13 protection rate will be \$25. And five vehicles at the
14 additional personal injury protection rate will be \$5.

15 Q. The next column, UM, what does that stand for?

16 A. Uninsured motorist. 25 vehicles at uninsured motorist rate
17 will be \$650. Five vehicles at the uninsured motorist rate
18 will be 130 vehicles -- \$130.

19 Q. And then the next column, PIP/200 DED, what does that stand
20 for?

21 A. Personal injury protection 200 deductible is either 200
22 deductible or full. In this case, the insured chose 200
23 deductible. The detail of it is 25 vehicles at the personal
24 injury protection with a 200 deductible is 30,575 on an annual
25 basis. And for five vehicles, the personal injury protection

D4aWbej4

Cherie - direct

1 would be 200 deductible, 18,475 in territory 17, which is
2 Brooklyn.

3 Q. What about total rate for these vehicles on the Bejaoui
4 Express policy at territory 17?

5 A. \$265,962.50.

6 Q. Does this chart set forth similar calculations for the rate
7 had the vehicles been rated in Manhattan?

8 A. That --

9 Q. And I'll direct you to the first page, territory column.

10 A. Yes.

11 Q. And what was the total rate had these vehicles been rated
12 in Manhattan?

13 A. \$268,887.50.

14 Q. Going down to the next section, which I believe is titled
15 calculation based on territory 22, Nassau County, listed on
16 application --

17 A. That's correct.

18 Q. -- what does that section set forth?

19 A. This section just basically gives you the policy number,
20 the effective date, the territory, which is Nassau County,
21 territory 22, as is listed in the documents provided to
22 American Transit. The bodily injury rate or the schedule of
23 vehicles are the same amount as on the prior territories, 25
24 vehicles at 4289, which is the limousine rate, five vehicles at
25 5703, which is a taxi/all other classification.

D4aWbej4

Cherie - direct

1 Q. And --

2 A. The bottom --

3 Q. I'm sorry. What was the total rate on the policies as set
4 forth with the rating territory of 22?

5 A. \$185,217.50.

6 Q. Did you also do on this chart a calculation of the
7 difference in premium from Nassau County versus Brooklyn?

8 A. Yes.

9 Q. Where is that listed, at the middle of the chart?

10 A. In the middle of the chart, the difference in premium for
11 Nassau versus Brooklyn is 80,745.

12 Q. Was there a difference in premium from Nassau County versus
13 New York City?

14 A. 83,670.

15 Q. Is this annual or term?

16 A. Annual.

17 Q. Now, at the bottom of the chart, what policy does the
18 bottom of the chart relate to, looking at ARC738305-1?

19 A. This is related to Bejaoui Express, the renewal policy.

20 Q. I see that there's a dash one for the policy set forth on
21 the bottom of the chart.

22 A. That simply means the preceding year of the policy. Our
23 policies are annualized, so the renewal policy will be dash
24 one.

25 Q. This is the same policy?

D4aWbej4

Cherie - direct

1 A. Same policy.

2 Q. Just a different year?

3 A. Just a different year, that's correct.

4 Q. Did you do the same calculations for the policy on the
5 second year of the policy?

6 A. Yes.

7 Q. What, if any, was the difference in premium from Nassau
8 versus Brooklyn on an annual basis?

9 A. \$80,745.

10 Q. What was the difference in premium from Nassau versus New
11 York City?

12 A. \$83,670.

13 Q. Does this chart also set forth calculations for the other
14 two policies we've been talking about, Pedro Limo and Vestal?

15 A. Yes.

16 Q. Please turn to the second page of Government Exhibit 3000.
17 Which policy does this chart relate to?

18 A. This was for Pedro Limousine Service, ARC741860.

19 Q. Did you determine whether there was a difference in premium
20 from the rating territory listed on the applications and policy
21 documents?

22 A. Yes.

23 Q. And what was the difference?

24 A. From --

25 Q. The premium from the policy documents versus a rating

D4aWbej4

Cherie - direct

territory at the rating territory in Brooklyn.

A. 7,315.

Q. What is the difference in premium from what's listed on the applications as the rating territory at New York City?

A. 7,350.

Q. I'd like to turn to the last page of Government Exhibit 3000. Which policy does this relate to?

A. This is Vestal Limousine Corporation.

Q. Did you do the same type of analysis with the Vestal Limousine policy documents that you did with Bejaoui Express and Pedro Limousine?

A. That's correct. Yes.

Q. And for the first year of the policy, what, if any, was the difference in premium between what was listed as the territory and Brooklyn?

A. 56,760.

Q. What's the difference in premium between what was listed on the application and New York City for the first year?

A. 58,047.

Q. And the same questions for the second year of this particular policy.

A. 89,795 for Brooklyn. 91,082 for Manhattan, NYC.

MR. NAWADAY: No further questions, your Honor.

THE COURT: Any cross?

MR. DRATEL: Yes, your Honor.

D4aWbej4

Cherie - direct

1 CROSS-EXAMINATION

2 BY MR. DRATEL:

3 Q. Good afternoon, Mr. Cherie.

4 A. Good afternoon.

5 Q. Let's go back to government's 3000, the chart that you were
6 just looking at. Were those policies in effect for the entire
7 period that you evaluated?

8 A. No.

9 Q. How long were the policies in effect for?

10 A. I don't know. I think they're for -- the first policy that
11 we have Bejaoui Express, I believe that the, we had an
12 annualized policy and a portion of the second year. I don't
13 know exactly what the time period was.

14 Q. And the others you're not sure, or you don't know?

15 A. All three policies were renewed, but the second period of
16 the policy, I don't know exactly when they terminated. But
17 they were not full term.

18 Q. Thank you.

19 If you want to look at -- do you have 3000A still with
20 you, the chart of claims?

21 MR. DRATEL: May I approach, your Honor.

22 THE COURT: Yes.

23 MR. DRATEL: Thank you.

24 Q. You also have it on the screen, if you want to look at it
25 that way.

D4aWbej4

Cherie - cross

1 Do you see about halfway down, November 21, 2005?

2 A. Yes.

3 Q. Go across all the way to the right, that's Fulton County,
4 where that accident occurred, correct?

5 A. Yes.

6 Q. And Fulton County is somewhere north of Albany?

7 A. Yes.

8 Q. Correct?

9 A. Yes.

10 Q. And, in fact, it's rated at 29, right?

11 A. That's correct.

12 Q. Which is less expensive than 28, than the Vestal one,
13 right, than Vestal would be?

14 A. I am not sure about that. I would have to look that up.
15 I'm not sure.

16 Q. Do you want to look at it and see what Vestal is rated?
17 You can look at, you want to look at Government Exhibit 350, if
18 you have that there. That's Endwell, but it's the same, right,
19 Broome County? See the 28? I'll put it up on the Elmo for
20 you. Do you see it?

21 A. No.

22 Q. Oh. You don't have Government Exhibit 250 up there? 200,
23 rather. Sorry. 250. Government's 350, flipping over to the
24 Elmo, government's 350. And Endwell New York, Broome County,
25 28?

D4aWbej4

Cherie - cross

1 A. Yeah, I have that.

2 Q. Okay. Going back to 3000-A, the chart of claims --

3 A. Yes.

4 Q. -- one of the reasons that places like Brooklyn and
5 Manhattan and New York City area are rated, when I say higher,
6 I mean there's higher risk than other places, is because there
7 are more accidents, correct?

8 A. That's correct.

9 Q. And that's why insurance rates are higher in those areas,
10 right?

11 A. That's correct.

12 Q. So it wouldn't be unusual for Brooklyn to have more
13 accidents than, say, Fulton County or Broome County, right, for
14 the same number of cars? Correct?

15 A. That's possible, yes.

16 Q. Well, that's why it's rated that way, right?

17 A. That's correct.

18 Q. In fact, there are fewer cars in those counties all
19 together, right?

20 A. That's correct.

21 Q. That's what the rating system is all about, is assessing
22 the risk to the insurance company of having to essentially pay
23 out a claim?

24 A. That's correct.

25 Q. So the frequency of accidents is one of the determining

D4aWbej4

Cherie - cross

1 factors on how it's priced, on how it's rated?

2 A. Yes.

3 Q. And in the for hire, in like a taxi and limousine service,
4 for that industry it's even higher, correct?

5 A. That's correct.

6 Q. And that's why they're in the assigned risk pool in the
7 first place?

8 MR. NAWADAY: Objection.

9 THE COURT: I'll allow it.

10 BY MR. DRATEL:

11 Q. Right?

12 A. Yeah.

13 Q. And there are more taxis and private cars in Brooklyn and
14 Manhattan than anywhere else, right?

15 A. That's correct.

16 Q. Now I want to talk a little bit about rating in general,
17 and you're familiar, you said, with the manual. Right? New
18 York Automobile Insurance Plan manual, call it the AIP manual,
19 or just the manual. Okay?

20 A. Okay.

21 Q. You talked about garaging, right, as a factor in rating?
22 Right?

23 A. That's correct.

24 Q. But, in fact, and Rule 46 is a rule that addresses rating,
25 right?

D4aWbej4

Cherie - cross

1 A. I don't know. I don't have that in front of me.

2 Q. Okay. I'll put it on the Elmo. So you see where it says
3 premium development other than zone-rated automobiles?

4 A. Yes.

5 Q. Go down to C1, liability and basic no fault coverages.

6 A. Yes.

7 Q. Right?

8 A. Yes.

9 Q. It says, "Determine the territory from the territory
10 definitions based on the highest rated territory where the
11 public automobile is operated." Right?

12 A. That's correct.

13 Q. Nothing about garaging there, right?

14 A. No.

15 Q. So I'm looking at that and I'm thinking territories; I'm
16 not told anything about garaging. Right?

17 A. Okay.

18 Q. And if we go up to the top, to A2, it says, "All other
19 public automobiles" -- I'm sorry. "This rule applies to all
20 other public automobiles which regularly operate within a
21 200-mile radius from the street address of principal garaging.
22 For those automobiles regularly operated beyond a 200-mile
23 radius, refer to the premium development zone-rated automobiles
24 rule," which is Rule 48.

25 So that talks about garaging, right?

D4aWbej4

Cherie - cross

1 A. Yeah.

2 Q. But that doesn't tell you how to rate based on garaging; it
3 just tells you whether this rule applies or some other rule
4 applies, right?

5 MR. NAWADAY: Objection. The document speaks for
6 itself.

7 THE COURT: I'll allow that. You can rephrase it.

8 MR. DRATEL: Okay.

9 Q. This section that I just read, A2, doesn't say that rating
10 is based on garaging; it just says whether Rule 46 applies or
11 not, right?

12 A. You know, the interpretation of this document as far as,
13 you know, the manual is concerned is pretty clear. I'm not
14 sure if we could, you know, interpret it. I mean, all other
15 policies, but reading it, I --

16 Q. Well --

17 A. I'm trying to figure out what exactly --

18 Q. I appreciate that.

19 A. It's pretty cut and dried.

20 Q. How is it cut and dried in terms of garaging? Tell me
21 where in the manual it says garaging determines rating.

22 A. "All other public automobiles regularly operated within a
23 200-mile radius" --

24 THE COURT: Sir, this is being recorded, so you have
25 to slow down.

D4aWbej4

Cherie - cross

1 THE WITNESS: I got to slow down.

2 A. Well, again, the manual, the NYAIP does not allow for
3 interpretation. So I don't -- I'm not legally or I can't say
4 that this is, you know, is an interpretation to it whatsoever.

5 Q. I'm not asking for an interpretation.

6 A. Okay.

7 Q. I'm asking you does that section say that you rate an
8 automobile based on where it's garaged.

9 A. When we receive --

10 Q. No. I'm asking a question. Does that --

11 A. Yes.

12 Q. It does?

13 A. Yes.

14 Q. How does it say that in that section? Please explain to me
15 and the jury how that says rate based on garaging locations.

16 A. "All other public automobiles which regularly operate
17 within a 200-mile radius from the street address of principal
18 garaging."

19 Now, premium computation, "Determine the territory from the
20 territory definitions based on the highest rated territory
21 where the public" --

22 THE COURT: What are you reading from, sir?

23 BY MR. DRATEL:

24 Q. Which section are you reading now?

25 A. Premium computation, C, Rule 46.

D4aWbej4

Cherie - cross

1 THE COURT: C?

2 THE WITNESS: Rule 46.

3 THE COURT: When you read from a document, when anyone
4 reads from a document, they tend to speed up. Try not to,
5 because the court reporter must record everything you say. So
6 when you're reading, read it slowly.

7 THE WITNESS: Okay.

8 A. "Determine the territory from the territory definitions
9 based on the highest rated territory where the public
10 automobile is operated."

11 Q. Okay. Let me stop you there. Does that say anything about
12 garaging?

13 A. No.

14 Q. About operating, right?

15 A. It mentions operations, yes.

16 Q. Can you, from your knowledge of the manual, point to any
17 other section that says rate based on garaging location?

18 A. No.

19 Q. And these manuals, are they distributed to applicants?

20 A. No.

21 Q. Are they distributed to producers?

22 A. I believe so.

23 Q. So is it the responsibility of the producer to determine a
24 rate based on consultation or discussion with the applicant?

25 A. I, I don't know that.

D4aWbej4

Cherie - cross

1 Q. Now an insurer who participates in the assigned risk
2 program --

3 A. Yes.

4 Q. -- like American Transit is responsible for verification
5 programs, right, and compliance programs, in terms of the
6 policy information? Right?

7 A. Yes.

8 Q. And responsible for sometimes auditing, right?

9 A. That's correct.

10 Q. And responsible for -- withdrawn.

11 Does American Transit do any training for
12 applicants --

13 A. No.

14 Q. -- on how to rate or how to apply?

15 A. No.

16 Q. Do they do training for producers?

17 A. No.

18 Q. Do they test the producers' knowledge at any time as to
19 whether or not they know how to rate automobile policies?

20 A. No.

21 Q. Now let's look at Government Exhibit 200, please. I'll put
22 it up on the Elmo for you. Now, this, let me show you the
23 bottom right, 200. But I'm interested first, it says this is a
24 commercial application, right?

25 A. That's correct.

D4aWbej4

Cherie - cross

1 Q. And if it's for a private car or for-hire vehicle, down
2 here, Lincoln Town Car, wrong application, right?

3 MR. DRATEL: I'm sorry. Let me withdraw that.

4 Q. That is not a correct application, is it?

5 MR. NAWADAY: Objection. Vague.

6 MR. DRATEL: I'll withdraw it and rephrase it.

7 Q. Isn't it supposed to be a public application as opposed to
8 a commercial application if it's for a for-hire vehicle like a
9 limousine service?

10 A. That, that answer I can't give you because -- the reason
11 why I can't do that is because this was received by the NY --
12 sent to us by the NYAIP. Whatever reason why we received this
13 application different to another application, I wouldn't be
14 able to tell you that. Or is it even incorrect at the time.
15 This is -- based on when this came in, I don't know what the
16 regulation was at that time.

17 Q. So if someone sends you an application, if New York AIP
18 sends you an application for 18-wheel tractor truck as a
19 private passenger vehicle, you have to write the policy; you
20 don't send it back saying, Reassign this to someone who can
21 provide the correct coverage?

22 A. Yes.

23 Q. You have to write it or you send it back?

24 A. We send it back.

25 Q. That's right. So this is not correct. I don't care what

D4aWbej4

Cherie - cross

1 happened to it. I just want to say you cannot get a commercial
2 policy for a private car. Right?

3 THE COURT: Sustained.

4 Forget for the moment whether the application is
5 correct or not. Just answer this, if you know the answer. If
6 you don't, you don't. Can you obtain a commercial policy for a
7 livery cab?

8 THE WITNESS: No, depend --

9 THE COURT: All right. Can you obtain a commercial
10 policy for a normal taxicab?

11 THE WITNESS: No.

12 THE COURT: All right. Thank you. Next question.

13 BY MR. DRATEL:

14 Q. But you can for a public, right?

15 A. That's correct.

16 (Continued on next page)

1 Q. And it's the producer's responsibility to make sure that
2 this application is correct in the sense of, if he's applying
3 for a livery cab, that it should be a public policy as opposed
4 to a commercial policy?

5 A. The way I've learned it and the way how I learn assigned
6 risk, the producer is the professional. He guides the
7 applicant.

8 Q. Let's look at Government's 237.

9 MR. DRATEL: If Ms. Ansari could put up 237, please.

10 Q. I will just show you the first page of it Government 237.
11 And this is page 2.

12 So look at the, it says here, the one on the left is
13 producer's signature, right, it says?

14 A. I don't know what that says.

15 Q. That's what it says underneath that signature?

16 A. It says "producer's signature."

17 Q. Yes. And then next to that it says "insured's signature,"
18 right?

19 A. That's correct.

20 Q. The one on the left looks like a signature, right?

21 A. That's correct.

22 Q. And the one in the middle looks just like a printed name,
23 to a certain extent, right?

24 MR. NAWADAY: Objection.

25 THE COURT: Well, let me rephrase it. Does that look

1 to you as if it's a signature or a block print, in other words,
2 in the middle?

3 THE WITNESS: No, I --

4 THE COURT: The name in the middle, is that signed or
5 printed?

6 THE WITNESS: I don't want to make a determination on
7 how somebody signs their name. I can't tell.

8 Q. But you can't tell.

9 A. I can't tell. I can't tell.

10 THE COURT: But I take it your answer is you don't
11 know.

12 THE WITNESS: I don't know.

13 Q. Do you know the term "premium remedy"? Is that familiar to
14 you?

15 A. No.

16 Q. Now, you said, at one point you mentioned that NYAIP is a
17 not-for-profit organization, right?

18 A. That's correct.

19 Q. American Transit is not a not-for-profit organization?

20 A. No, we're not.

21 Q. Right. And these policies are designed to make American
22 Transit a profit from these policies, right?

23 A. I will assume so.

24 Q. So, in other words, you're not pricing these to break even.
25 You're pricing these to make money. That's the goal of the

D4AABEJ5ps

Cherie - cross

1 corporation. Right?

2 A. I will not be able to say that.

3 Q. Well, insurance is in many ways a volume business, right?

4 A. That's correct.

5 Q. The more policies you get the more money you can make.

6 Right?

7 A. That's correct. That's correct.

8 Q. And the same is true for brokers, right?

9 A. That's correct.

10 Q. The more policies they write the more commissions they get.

11 A. That's correct.

12 Q. And they're not not-for-profit --

13 A. No.

14 Q. -- operations either, are they?

15 A. No, they're not.

16 MR. DRATEL: Nothing further, your Honor. Thank you.

17 THE COURT: Any redirect?

18 MR. NAWADAY: Yes, your Honor.

19 REDIRECT EXAMINATION

20 BY MR. NAWADAY:

21 Q. Mr. Cherie, do you remember the questions you had on
22 cross-examination relating to the effective date for the
23 policies you looked at?

24 A. Yes.

25 MR. NAWADAY: Could we bring up Government Exhibit

D4AABEJ5ps

Cherie - redirect

3000 again.

Q. This is your chart that you created.

A. Yes.

Q. Are there effective dates set forth on your chart --

A. That's correct.

Q. -- for these policies?

A. Yes.

Q. What was the effective date for the Bejaoui Express policy?

A. 03/03/2005, 03/01/2006.

Q. Was there a second year term for this policy?

A. 03/01/2006, 03/01/2007.

Q. Are the effective dates set forth for the other policies as well on Government Exhibit 3000?

A. Yes.

Q. Please turn to page 2 of Government Exhibit 3000. What are the effective dates set forth in the Pedro Limousine column?

A. 05/16/2006 to 03/01/2007.

Q. Could you please turn to the last page of Government Exhibit 3000. What are the effective dates set forth for the Vestal Limo policy?

A. 11/19/2005 to 03/01/2006.

Q. And for the second-year term?

A. 03/01/2006 to 03/01/2007.

Q. You were asked questions, Mr. Cherie, on cross-examination about whether, as an underwriter, you used the principal place

1 of garaging in determining rating territory. Do you remember
2 those questions?

3 A. Yes.

4 Q. Do you use principal place of garaging in determining the
5 rate?

6 A. When we receive the application from the NYAIP, all we have
7 is the garaging location to write -- to put territory. We
8 don't have anything else to rate the policy.

9 Q. How do you use the principal place of garaging to rate the
10 territory -- to rate the policy?

11 A. We go the manual, the NYAIP manual, we look in the
12 territory pages. We look for the application and the territory
13 they're using in the application. We go in the manual and we
14 price it accordingly.

15 Q. Do you know if American Transit does inspections of the
16 policies it receives?

17 A. When we receive an application from the plan, usually we
18 don't do inspections of that application. We write it. And in
19 the course of that policy, there might be some issue or
20 something that the plan call us on, and then we'll do
21 inspection. But it's not a practice of ours to do inspection
22 on every single application.

23 Q. Why not?

24 A. It -- um, we, number one, it come from the plan and we
25 cannot reject any application that come from the plan.

1 Q. Why can't you reject any applications that come from the
2 plan?

3 A. We don't reject applications that come from the plan
4 because it's a pool and we are obligated by the state, are
5 mandated, to write what we told the plan, agreed to write. The
6 only way we will reject an application is based on the
7 classification, because we cannot write it, or because of
8 limits on the type of business there is.

9 Q. Is American Transit required to participate in the plan?

10 A. No, we are not required.

11 Q. But if American Transit does participate in the plan, are
12 you allowed to reject any applications that are forwarded to
13 American Transit from the plan?

14 A. No. No.

15 MR. DRATEL: Asked and answered, your Honor.

16 THE COURT: I'll allow it.

17 A. No. No.

18 Q. What happens if there's any loss associated with a policy
19 from the plan relating to fraud about the rating territory on
20 the plan?

21 A. There's two things that happen, and it has to do with our
22 special investigation unit and how they want to handle it.
23 Sometimes they re-rate it. Sometimes they say just cancel the
24 policy.

25 MR. NAWADAY: No further questions.

1 MR. DRATEL: Briefly, your Honor.

2 RECROSS EXAMINATION

3 BY MR. DRATEL:

4 Q. You did tell us earlier that if you received an application
5 that was classified incorrectly, so, for example, if someone
6 wanted to put an 18-wheeler on a private car or even a public
7 application, you could reject it, right?

8 A. Yes. Yes, yes.

9 Q. So you don't accept everything that comes in.

10 A. Not everything, no.

11 Q. And you were asked about garaging and what you get in terms
12 of information. I will put Government Exhibit 250 up again for
13 you, and if you could just -- do you see -- it may be a little
14 difficult to read, but if you see there are boxes on the right
15 towards the bottom, right? And there is one that says, just to
16 the left of where there are a couple little boxes with the loss
17 payer and just to the left of that, under description and use
18 to the right? Actually, description and use, no. 4,
19 description and use, right?

20 A. Yes.

21 Q. And what it says there is "list territories in which
22 vehicles operate." Right? It doesn't say where they're
23 garaged. It says "operate." Right?

24 A. That's correct.

25 Q. And in the large box to the right, the small box to the

1 right of that, it says "territories," and then "ies" in
2 parentheses, "in which or through which vehicle is customarily
3 operated." Right?

4 A. That's correct.

5 Q. Are there any materials that American Transit provides to
6 applicants so that they can navigate this and understand what
7 that means?

8 A. No.

9 MR. DRATEL: Nothing further, your Honor. Thank you.

10 REDIRECT EXAMINATION

11 BY MR. NAWADAY:

12 Q. Mr. Cherie, you were just asked about Government Exhibit
13 250 --

14 A. Mm-hmm, yes.

15 Q. -- up on the screen. If there's no information as it
16 appears in this application setting forth the territories in
17 which the vehicle is customarily operated, what territory
18 designation do you use to create the rate?

19 A. We would use the territory definition that was represented
20 here, which is, in this case is 28, and we will use the address
21 of the applicant.

22 Q. Which is what?

23 A. Which is 2520 Vestal Parkway, Suite 2, Vestal, Broome, New
24 York, 13650.

25 MR. NAWADAY: No further questions.

1 MR. DRATEL: No further questions, your Honor.

2 THE COURT: Thank you. You are excused, sir. You may
3 step down.

4 (Witness excused)

5 THE COURT: Mr. Nawaday, if you would take the
6 documents back and let me know who the next witness for the
7 government is.

8 MS. KOVNER: Your Honor, the government's next witness
9 is Sadok Mejri.

10 THE COURT: Just step up here to the witness box, sir.

11 SADOK MEJRI,

12 called as a witness by the government,

13 having been duly sworn, testified as follows:

14 THE COURT: Welcome. Please be seated, sir.

15 Your witness.

16 DIRECT EXAMINATION

17 BY MS. KOVNER:

18 Q. Thank you, your Honor. And Mr. Mejri, if you would just
19 get as close to the microphone as you can.

20 Mr. Mejri, what city and state do you live in?

21 A. I live in Queens, New York, the state of New York.

22 Q. How long have you lived in Queens, New York?

23 A. I've lived there since 2001 or 2002.

24 Q. Have you ever lived in upstate New York?

25 A. No, I've never lived in upstate New York, no.

D4AABEJ5ps

Mejri - direct

1 Q. Have you ever worked for a company in upstate New York?

2 A. No, ma'am.

3 Q. Directing your attention to the year 2005, did you see an
4 accountant about your taxes that year?

5 A. Yes, ma'am.

6 Q. Who referred you to that accountant?

7 A. It was a paralegal in Mr. Tartir's office, law office.

8 Q. What was the name of the accountant that that paralegal
9 referred you to?

10 A. It was Mr. Mondher Bejaoui.

11 Q. After the paralegal referred you to Mr. Mondher Bejaoui,
12 did you meet with Mr. Bejaoui to do your taxes?

13 A. Yes, ma'am.

14 Q. Where did those meetings take place?

15 A. In the same location as the law office, in Brooklyn.

16 Q. I'm not sure I made out all your answer. You said the law
17 office of Mr. Tartir in --

18 A. In Brooklyn.

19 Q. Can you describe generally what happened at your meetings
20 with Mr. Bejaoui to do your taxes.

21 A. Well, initially I did my taxes in the beginning of March.
22 Then something showed up about one of my W-2. So I was
23 doing -- I was in Mr. Tartir office to pick up a form to renew
24 my work authorization back then. And Mister -- so I spoke
25 about it to the paralegal of Mr. Tartir and he referred me to

D4AABEJ5ps

Mejri - direct

1 Mr. Bejaoui as being an accountant in his -- in the office
2 there. So I spoke to him and he proposed at that time that I
3 had to do an amendment, tax amendment.

4 Q. Did you give Mr. Bejaoui documents over the course of
5 preparing your taxes with him?

6 A. Yes, ma'am.

7 Q. And what kinds of documents?

8 A. Well, the government ID, my New York State driver's
9 license, my Social Security, and two W-2s and one 1040, and
10 some of them.

11 Q. Did he make copies of those documents?

12 A. Yes, he did.

13 Q. Did he ultimately prepare your tax returns for you?

14 A. Yes, he did.

15 Q. Did he provide with you copies of those returns?

16 A. That's correct. He did.

17 Q. And did you save copies of the returns that Mr. Bejaoui
18 prepared for you?

19 A. Yes, I did.

20 Q. I'm going to show you now what has been marked as
21 Government Exhibit 2101 for identification and 2102 for
22 identification. Let's look first at 2101. What is Government
23 Exhibit 2101?

24 A. It's a letter reminding me of my rights in dealing with
25 Mister -- with this tax company.

D4AABEJ5ps

Mejri - direct

1 Q. Who gave you that letter?

2 A. Mr. Mondher Bejaoui.

3 MS. KOVNER: Your Honor, the government offers 2101.

4 MR. DRATEL: Foundation, your Honor. Hearsay.

5 THE COURT: Lay a foundation.

6 Q. Who is that document from?

7 A. Mondher, Merci Income Tax Service, Inc.

8 Q. And who gave it to you?

9 A. Yes.

10 Q. Mr. Bejaoui gave it to you?

11 A. Yes, Mr. Bejaoui gave me the document.

12 STPHRAO: Your Honor, the government offers Government
13 Exhibit 2101.

14 MR. DRATEL: Still, your Honor, objection.

15 THE COURT: Let me take a look at the exhibit.

16 (Pause) All right. Sidebar.

17 (Continued on next page)

1 (At the sidebar)

2 THE COURT: You've established that this document was
3 given to him by Mr. Bejaoui, sir.

4 MR. DRATEL: It's a hearsay document. The testimony
5 is valid but not the testimony. He could say, I got a letter
6 from him.

7 THE COURT: This is just as a privacy policy. What do
8 you intend to make of it?

9 MS. KOVNER: Just to establish the identity of the
10 person that he was dealing with. It is a critical fact in this
11 case that the defendant -- I'm sorry -- that Mr. Mejri went to
12 the defendant, he had him prepare his taxes. That was the
13 nature of their business, not an insurance relationship. So
14 the fact that defendant made the statement, it is the
15 defendant's statement. Therefore it is outside of the hearsay
16 rule.

17 THE COURT: You're saying this is a statement of a
18 party opponent?

19 MS. KOVNER: Yes.

20 THE COURT: He has testified that it came from
21 Bejaoui. A party opponent.

22 MR. DRATEL: Just give me a second to look at the
23 rule. (Pause)

24 THE COURT: Sir. Statement of a party opponent.

25 MR. DRATEL: Yes.

D4AABEJ5ps

Mejri - direct

1 THE COURT: So it comes in that way.

2 MR. DRATEL: But that's just it. A statement of a
3 party opponent.

4 THE COURT: Oh, you wanted the rule? I'm sorry. I
5 thought your magic little thing found the rule.

6 MR. DRATEL: The corporate book is actually easier
7 that way than scrolling through it.

8 THE COURT: Let me see, what rule?

9 MR. DRATEL: It's probably, it's 804 something, right?

10 MR. NAWADAY: No, it's 801.

11 MR. DRATEL: Oh, 801, then it's, right, not hearsay.

12 MR. NAWADAY: 801(d)(2).

13 THE COURT: It's offered against an opposing party and
14 was made by the party in an individual or representative
15 capacity.

16 MR. DRATEL: OK.

17 THE COURT: All right. Objection overruled.

18 (Continued on next page)

19

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25

D4AABEJ5ps

Mejri - direct

1 (Jury present)

2 MS. KOVNER: Your Honor, the government offers 2101.

3 THE COURT: Admitted.

4 (Government's Exhibit 2101 received in evidence)

5 MS. KOVNER: Ms. Ansari, would you publish 2101.

6 Q. What is the date of this letter?

7 A. It was March 12, 2005.

8 Q. And who are the people who are listed as the recipients of
9 this letter?

10 A. Sadok and Dawn Mejri.

11 Q. Is dawn Mejri your wife?

12 A. My ex-wife.

13 Q. And who signed the letter at the bottom?

14 A. Mondher, Merci Income Tax Service, Inc.

15 Q. I'm handing you now -- I'm sorry. You have also in front
16 of you what's been marked for identification as Government
17 Exhibit 2102?

18 A. Yes.

19 Q. Who prepared that document?

20 A. Mr. Bejaoui.

21 Q. Who gave it to you?

22 A. Mr. Bejaoui.

23 Q. What is it?

24 A. Your individual income tax return, 2004.

25 Q. Is that the return prepared for you?

D4AABEJ5ps

Mejri - direct

1 A. Yes, ma'am.

2 MS. KOVNER: The government offers 2102.

3 MR. DRATEL: No objection.

4 THE COURT: 2102 admitted without objection.

5 (Government's Exhibit 2102 received in evidence)

6 Q. Did you receive these documents from Mr. Bejaoui at the
7 same time you received this letter, the letter we just looked
8 at?

9 A. Yes, that's correct.

10 Q. If we could look at the first page first and then if we
11 could go on from there to the second page. And if we could
12 zoom into the section at the bottom. Is that address where you
13 went to have your taxes done?

14 A. 305 Atlantic Avenue, yes.

15 MS. KOVNER: You can take that exhibit down.

16 Q. So, Mr. Mejri, now I'd like to show you some other papers
17 which are in evidence. If we could publish Government Exhibit
18 115 in evidence. And let's turn to the second page of this
19 exhibit. And let's just zoom in below the header, perhaps, on
20 that document. Mr. Mejri, who is identified as the president
21 of Vestal Limousine Corp. on this document?

22 A. Sadok, Mejri.

23 Q. And who is listed as the name, title of officer authorizing
24 dissolution on this document?

25 A. Sadok, Mejri.

D4AABEJ5ps

Mejri - direct

1 Q. Were you in fact the president of Vestal Limousine Corp.?

2 A. No, ma'am.

3 Q. Have you ever been the president of a livery company?

4 A. No, ma'am.

5 Q. Have you ever created or dissolved a corporation in New
6 York State?

7 A. No, ma'am.

8 Q. Let me turn to the bottom of this page. Can you read the
9 name of the person whose credit card was used to pay for this
10 filing.

11 A. Mondher Bejaoui.

12 Q. Did you ever authorize Mr. Bejaoui to prepare corporation
13 documents identifying you as the president of a limo company?

14 A. No, ma'am.

15 Q. Before you met with the government to prepare for your
16 testimony at trial, had you ever seen this document?

17 A. No, ma'am.

18 Q. If we could publish now what's in evidence --

19 THE COURT: Let me see the top of that document.

20 All right. Thank you. Go ahead.

21 STPHRAO: If we could publish now what's in evidence
22 as Government Exhibit 250. And if we could zoom in so that we
23 show the second section, section no. -- section no. 3. If we
24 could scroll up also so that we see the section that he filled
25 out. That's perfect. Thank you.

D4AABEJ5ps

Mejri - direct

1 Q. Who is listed as the president of Vestal Limousine Corp. on
2 this application?

3 A. Sadok Mejri.

4 Q. Did you ever provide information to an insurance agent or
5 broker in connection with a livery cap company insurance
6 application?

7 A. No, ma'am.

8 MS. KOVNER: Let's turn to the second-to-last page of
9 this document. I'm sorry. There's a signature page. If we
10 could zoom in on the applicant's signature line.

11 Q. Did you in fact sign on any of these lines?

12 A. No, ma'am.

13 Q. Can you read the date that this application was signed by
14 the applicant?

15 A. 11/15/2005.

16 Q. Where were you employed in November of 2005?

17 A. I was working for the trucking company located in Cedar
18 Rapids, Iowa.

19 Q. What were you doing for the trucking company located in
20 Cedar Rapids, Iowa?

21 A. I was driving an 18-wheeler tractor-trailer.

22 Q. Did the company that you worked for provide with you
23 records of where it was that you drove for them?

24 A. The company send us the spreadsheet of detailed statement
25 of my trips with the company.

D4AABEJ5ps

Mejri - direct

1 Q. I'm showing you now what's been marked as Government
2 Exhibit 2103 for identification. What is Government Exhibit
3 2103?

4 A. It's CRST Inc. payroll statement.

5 Q. And is CRST Inc. the company you worked for driving a
6 tractor-trailer?

7 A. That's correct, yes, ma'am.

8 Q. Does that sheet reflect trips that you made in November
9 2005?

10 A. That's correct.

11 MS. KOVNER: The government offers 2103.

12 MR. DRATEL: Objection, your Honor.

13 THE COURT: 830(6), sustained. I take it that was the
14 objection.

15 MR. DRATEL: Yes, sir.

16 THE COURT: Ladies and gentlemen, it's just a legal
17 issue. I've given them a legal reference, which they both
18 understand. It saves having to go to sidebar. But don't take
19 anything from this discussion. It's a legal discussion.

20 Q. Mr. Mejri, where were you in November or mid November of
21 2005 when the insurance documents we just looked at were filed?

22 A. Was driving a tractor-trailer in New Mexico, going to
23 California.

24 Q. Were you in -- and the insurance document that we just
25 showed you, the application for Vestal, when was the first time

D4AABEJ5ps

Mejri - direct

1 that you saw that insurance application?

2 A. First time I saw it. It was in the prosecutor office.

3 Q. Was that in connection with preparing for your testimony
4 for this trial?

5 A. That's correct, yes.

6 THE COURT: May I see 2103, sir. Thank you.

7 Here you are.

8 Q. Mr. Mejri, was your profession at the time that you
9 received that statement, were you a professional trucker?

10 A. Excuse me?

11 Q. Were you a professional driver for a trucking company when
12 you received the CRST document that I showed you a moment ago?

13 A. That's correct, yes.

14 Q. Did you maintain records of your trucking activity for
15 CRST?

16 A. That's correct, yes.

17 Q. Did you keep that, keep those records, as part of your
18 regular practice as a trucker for CRST?

19 A. That's correct, yes.

20 Q. Did you rely on the records that you kept as part of your
21 business as a trucker?

22 A. I'm sorry. I didn't understand the question.

23 Q. Sure. So the CRST document, the trip sheet in front of
24 you, did you rely on records like that in doing business that
25 you did as a trucker?

D4AABEJ5ps

Mejri - direct

1 A. In doing business as a trucker?

2 Q. Yes.

3 A. Oh, no, I haven't been doing business as a trucker after
4 this.

5 Q. During the period when you were working as a driver for
6 CRST, did you use those trip sheets as part of your business as
7 a driver?

8 A. Yes. That's correct, yes.

9 MS. KOVNER: Your Honor, government offers 2103.

10 MR. DRATEL: Objection, your Honor.

11 THE COURT: Sustained. Let me see.

12 This document was created by CRST Van Expedited, Inc.
13 Is that correct?

14 THE WITNESS: Yes, that's correct.

15 THE COURT: Is it your copy of the payroll statement
16 that they generated, correct?

17 THE WITNESS: That's correct.

18 THE COURT: Do you know from what they generated it?

19 THE WITNESS: From what? I don't know what you mean.
20 I'm sorry.

21 THE COURT: What information did they use in making
22 this?

23 THE WITNESS: Well, that's my communication with the
24 trucking company.

25 THE COURT: Did you have anything do with making this

D4AABEJ5ps

Mejri - direct

document?

THE WITNESS: No, no. I just wrote this up. I send a message when I make a pickup, and when I make the delivery too, I send them the message to let them know.

THE COURT: I understand. Sustained.

MS. KOVNER: Your Honor, may we have a brief sidebar?

THE COURT: Yes.

(Continued on next page)

1 (At the sidebar)

2 THE COURT: Yes, ma'am. This is a CRST Van Expedited,
3 Inc., document. You can have somebody come in who is a
4 custodian of these or who generated the information here or it
5 was done under his or her supervision and have them testify.
6 But he's the recipient of this. He can't -- he hasn't so
7 far -- testified as to the requirements of 803(6).

8 I take it, sir, that's what you were about to say.

9 MR. DRATEL: Yes. Correct. Correct. In addition to
10 the fact that, not only not a qualified witness, but also, it's
11 not a regular practice of his business. He's not a business.

12 THE COURT: He's a trucker. And is he an employee of
13 CRST Van Expedited?

14 MS. KOVNER: Yes.

15 THE COURT: OK. Go ahead.

16 MS. KOVNER: So he obviously isn't the author of these
17 documents, but as part of his regular -- I direct your Honor to
18 the part of the rule that indicates "the term business used in
19 this paragraph includes business as used".

20 THE COURT: Are you reading the rule or the
21 commentary? You know what, you're looking -- you have
22 something different than I do. What is this? Do I not have
23 the right one?

24 MS. KOVNER: No, you probably have the right one and I
25 probably --

1 THE COURT: Here, we can, assuming this is the current
2 rule that I have here -- it's the 2013 version.

3 MS. KOVNER: Sure, right.

4 THE COURT: Make your argument based on this.

5 MS. KOVNER: Sure. Here we go. Right. "The record
6 was kept in the course of a regularly conducted activity of a
7 business, occupation, or calling, whether or not for profit."
8 So that was part of his regular occupation as a truck driver,
9 He kept records of his trips that he was provided by the
10 government. It's certainly true that he was not the creator of
11 these documents, but this is true for essentially all business
12 records. You just rely on them as part of your regular course
13 of activity. And he certainly relied on the trip sheets that
14 he received in doing his work as a driver.

15 THE COURT: But he can't testify that the record was
16 at or near the time by, or from information transmitted by
17 someone with knowledge, because he wasn't making --

18 MS. KOVNER: Well, your Honor, he received these
19 records of trips at or near the time he took these trips. Just
20 like, for instance, the witnesses from an insurance company
21 can't testify that any particular -- as to when a particular
22 document was received by the insurance company, they just say
23 it was my practice to receive these documents whenever I took a
24 trip, at or near the time of the trip.

25 THE COURT: I'm going to require somebody from the

D4AABEJ5ps

Mejri - direct

1 company who made these from information that he or she
2 received, or it would have been under the person's supervision,
3 or I think now you can do it as an alternative by a
4 certification. But he can't get these in under 803(6), on the
5 record so far.

6 (Continued on next page)

D4AABEJ5ps

Mejri - direct

(In open court; jury present)

THE COURT: Proceed.

BY MS. KOVNER:

Q. Mr. Mejri, did you ever meet with Mondher Bejaoui about anything other than preparing your taxes?

A. No.

MS. KOVNER: Nothing further.

THE COURT: Cross-examination.

MR. DRATEL: Thank you, your Honor.

THE COURT: About how long do you have, do you know?

MR. DRATEL: Five minutes.

THE COURT: All right.

CROSS EXAMINATION

BY MR. DRATEL:

Q. Good afternoon, Mr. Mejri. Now, you said that you met Mr. Bejaoui through Mr. Tartir, right?

A. In his office.

Q. And did Mr. Tartir do work for you as well?

A. Yes, he did.

Q. And you provided documents to him as well?

A. That's correct, yes, sir.

Q. Certification documents?

A. That's correct, yes, sir.

Q. Did you ever meet someone by the name of Saed Gheith?

A. Saed Gheith.

D4AABEJ5ps

Mejri - cross

1 Q. Yes.

2 A. No, sir.

3 Q. And did you ever meet with him and supply address
4 information for an insurance application?

5 Did you ever -- I'm sorry. Withdrawn. You never met
6 him, right? So you never gave him any information. You never
7 signed any documents in his presence.

8 A. No, sir.

9 Q. OK.

10 MR. DRATEL: Nothing further. Thank you.

11 MS. KOVNER: No redirect.

12 THE COURT: You are excused. You may step down, sir.
13 Thank you. No, give that to whatever lawyer, whichever lawyer
14 gave that to you.

15 (Witness excused)

16 THE COURT: All right, ladies and gentlemen. I think
17 we should end. It's 5 o'clock. You can see the evidence is
18 coming in at quite a pace. We are making good progress. We
19 haven't heard all of the evidence. Keep an open mind. Don't
20 decide the case yet because you haven't heard everything.
21 Don't discuss this with anyone else. We were relatively
22 successful this morning in starting early. Can I ask you to
23 start tomorrow at 9? All right. Let's start tomorrow at 9.
24 So you really should be here by ten of, so forth. Around 9
25 o'clock there's a fair amount of traffic downstairs, so you

1 have to build in time to get through security. And we won't
2 have -- we'll just do an hour lunch, all right, or even
3 shorter. But I think I owe it to you to give you at least an
4 hour. We'll start tomorrow at 9 o'clock. Enjoy the evening.
5 And give your booklets to Ms. Blakely.

6 (The jury left the courtroom)

7 THE COURT: All right. You may be seated in the
8 courtroom. Government, where do we stand now on when you think
9 the government case will be concluded?

10 MS. KOVNER: Your Honor, I think we are optimistic
11 that we might be able to rest on Friday. We are not certain.
12 It's cutting it close Friday afternoon. That's our hope.

13 THE COURT: All right. Mr. Dratel, you now have heard
14 that. Make sure Mr. Bejaoui knows that he is encouraged to
15 attend. You should speak with him tonight so that you can
16 answer any of his questions. He has a right to be informed of
17 what's happening. And I'll see everybody tomorrow at 9 a.m.

18 MR. DRATEL: And, your Honor, just so we're clear, I
19 will also -- I have in the past, but I will alert him that if
20 he plans on testifying, that he may do it as early as Friday.

21 THE COURT: Is that true? Is it possible that you
22 will conclude before the -- sometime in the morning?

23 MS. KOVNER: Possible.

24 THE COURT: All right. You should tell him that. And
25 you can tell him also that I am going to want him here -- I

1 want him here during the trial. I'm going to insist that he be
2 here at the conclusion of the government's case because I can
3 make sure he understands that it is his choice, not yours, as
4 to whether or not he testifies. I believe he understands that
5 because when I kept on reciting the four things that are his, I
6 think he at one point even repeated it back to me. So he
7 understands it. But I am going to need to tell him in person,
8 to make sure that he understands in person, it is his decision
9 as to whether or not to testify, not his lawyer's.

10 And you can also, if you think it's appropriate -- if
11 not you don't have to -- tell him that I will authorize the
12 marshals to use any appropriate force necessary to bring him
13 here if he does not want to come.

14 Actually, I don't think you need to tell him that.

15 MR. DRATEL: Either tonight or tomorrow I will inform
16 him that he's going to be produced Friday one way or the other
17 if, after tomorrow, it appears that the government will indeed
18 rest Friday.

19 THE COURT: I think that's correct. All right. And
20 that's fine. I'll see everybody at 9 o'clock tomorrow.

21 MR. DRATEL: Thank you, your Honor.

22 THE COURT: Make sure he understands that he is
23 encouraged to come tomorrow.

24 All right. Thank you. I have another case.

25 (Adjourned to 9:00 a.m., April 11, 2013)

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